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SENATE

REPORT
99-16

TO APPROVE THE COMPACT OF FREE ASSOCIATION

MARCH 22, 1985.—Ordered to be printed

Filed under authority of the order of the Senate of March 20 (legislative day, February 18), 1985

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S.J. Res. 77]

The Committee on Energy and Natural Resources, to which was referred the joint resolution (S.J. Res. 77) to approve the Compact of Free Association, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the joint resolution, as amended, do pass.

The amendments are as follows:

1. On page 3, line 3, delete "Association, having" and insert in lieu thereof "Association, subject to the provisions of section 4, having".

2. On page 87, lines 12-13, delete "Compact, as determined by the Government of the United States." and insert in lieu thereof "Compact, as provided in appropriation acts.".

3. On page 87, after section 3, insert new sections 4, 5 and 6 as follows:

"SEC. 4. (a) Mutual agreement by the Government of the United States as provided in the Compact which results in amendment, change, or termination of all or any part thereof, shall be effected only by Act of Congress and no unilateral action by the Government of the United States provided for in the Compact, and having such result, may be effected other than by Act of Congress.

"(b) The provisions of subsection (a) shall apply to all actions of the Government of the United States under the Compact including, but not limited to, actions taken pursuant to sections 431, 432, 441 or 442 and shall also apply to any amendment, change, or termina-

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tion in the Agreement between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(j) of the Compact and the Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(k) of the Compact and shall apply to the amendment, change, or termination of any agreement the terms of which are incorporated by reference into the Compact.

"(c) The determination by the Government of the United States under section 219 of the Compact shall be as provided in appropriation acts.

"Sec. 5. (a) The authorization provided by the Act of June 30, 1954 (68 State. 330) shall remain available after the effective date of the Compact with respect to the Federated States of Micronesia and the Republic of the Marshall Islands for the following purposes: (1) prior to October 1, 1986 for any purpose authorized by the Compact and (2) transition, including, but not limited to, completion of projects and fulfillment of commitments or obligations; termination of the Trust Territory Government and the operation of the High Court; health and education as a result of exceptional circumstances; ex gratia contributions to or for the populations of Bikini, Enewetak, Rongelap, and Utrik; and technical assistance and training in financial management, program administration, and maintenance of infrastructure.

"(b) Technical assistance may be provided pursuant to section 226 of the Compact by federal agencies and institutions of the Government of the United States to the extent such assistance may be provided to States, Territories of the Pacific Islands prior to the effective date of the Compact.

"(c) In addition to the programs and services set forth in section 221 and pursuant to section 224, the programs and services of the following agencies shall be made available as on the day prior to the effective date of the Compact:

"(1) to the Federated States of Micronesia—

"(A) Farmers Home Administration: *Provided,* That, in lieu of continuation of the program, the President may transfer to the Government of the Federated States of Micronesia, without cost, the portfolio of the Farmers Home Loan Administration applicable to the Federated States of Micronesia and provide such technical assistance in management of the portfolio as may be requested;

"(B) Legal Services Corporation

"(C) Public Health Service

"(2) to the Republic of the Marshall Islands—

"(A) Legal Services Corporation

"(B) Public Health Service

"(d) Upon the request of the government of the Federated States of Micronesia or the Republic of the Marshall Islands, pursuant to section 224 of the Compact the President may, by proclamation, continue any federal program which has been extended to the Trust Territory of the Pacific Islands to such government for a transition period of not to exceed three years from the effective date of the Compact if he determines that such a temporary continuation of the program would assist the requesting government in its transition.

"Sec. 6. (a) Appropriations made pursuant to the Compact of Free Association or any other provision of this Act may be made only to the Secretary of the Interior who shall have authority over any program or activity provided to the Federated States of Micronesia or the Republic of the Marshall Islands by the United States pursuant to the Compact of Free Association or pursuant to any other authorization except for the provisions of sections 161(e), 313, and 351 of the Compact of Free Association and the authorization of the President to agree to an effective date contained in section 1 of this Act. The resident representatives of the United States to the Federated States of Micronesia and to the Republic of the Marshall Islands pursuant to Article V of Title I of the Compact of Free Association shall be appointed by the Secretary of the Interior.

"(b) All programs and services provided to the Federated States of Micronesia or the Republic of the Marshall Islands by federal agencies may be provided only after consultation with, approval by, and under the supervision of the Secretary of the Interior, and the head of each federal agency is directed to cooperate with the Secretary of the Interior and to make such personnel and services available as the Secretary of the Interior may request.".

Purpose

The purpose of S.J. Res. 77 is to approve the Compact of Free Association, which was negotiated by the United States and the governments of the Republic of the Marshall Islands and the Federated States of Micronesia, two of the four governments comprising the Trust Territory of the Pacific Islands. The Compact sets the basis for termination of the Trusteeship and, if approved, would govern relations between these two governments and the United States in the posttrusteeship period.

Background

In 1947 the islands of Mcronesia held by Japan under a class C Mandate of the League of Nations were placed under the United Nations Trusteeship System with the United States as Administering Authority. The area was designated as a "strategic trusteeship" placing supervision in the Security Council rather than the General Assembly.

The area consists of over 2,000 islands covering three million square miles of ocean. The population of 130,000 live on about 97 islands and consist of six distinct ethic groups speaking nine mutually unintelligible languages.

Beginning with the decolonization movement of the early 1960's, the United States began to prepare the Micronesian peoples for self-determination and termination of the Trusteeship. The Solomon report of 1963 led to the establishment of the Congress of Micronesia in 1964. The Congress was the first indigenous association of representatives from the various districts and represented the first effort by any administering power to impose unity on the various peoples. Political unity, however, did not survive once political status negotiations commenced in 1969.

While the Congress of Micronesia determined to pursue a status of free association similar to the relationship of the Cook Islands and Niue to New Zealand, the representatives from the Northern Marianas sought a permanent relationship with the United States and reunification with Guam. Guam, the southernmost of the Marianas, had been acquired by the United States from Spain after the Spanish-American War. The remainder of the Marianas, together with the rest of Spain's possessions in Micronesia, were sold to Germany and after World War I given to Japan under a League of Nations' Mandate. The population of the Marianas is ethnically and culturally homogeneous, and the attractions of eventual reunification outweighed any interest in political association with the other peoples of Micronesia. In addition, the Northern Marianas had a more developed infrastructure and a cash economy as opposed to the subsistence economies elsewhere in the Trust Territory.

Negotiations with the Northern Marianas resulted in the conlusions of a "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States" on February 14, 1975. The Covenant was approved in the Northern Marianas in a U.N.-observed plebescite by a vote of 78.8 percent and subsequently by the Congress by a Joint Resolution in 1976. (Public Law 94-241, 90 Stat. 263).

The remainder of the Trust Territory proceeded with negotiations on a Compact of Free Association despite internal difficulties until July 12, 1978 when the Marshalls and Palau rejected a draft Constitution for the Federated States of Micronesia. The former districts of Yap, Kosrae, Truk, and Ponape approved the Constitution and became the Federated States of Micronesia (FSM) while Palau and the Marshalls developed their own constitutions.

Although agreement had been reached on the elements of a Compact in October of 1971, further refinements occurred until April, 1978 when the "Hilo Principles" were agreed to. By late 1980 agreement had been reached on specific language for the Compact except for a few issues and some subsidiary agreements. After a year's review, the new Administration reconvened the status negotiations in October 1981 and announced that it supported the agreements concluded and proposed prompt resolution of remaining issues. Negotiations were completed with Palau on August 26, 1982, the FSM on October 1, 1982, and with the Marshalls on June 25, 1983. As with the Marianas, the United Nations was invited to observe the plebescites in each of the areas.

On February 10, 1983 a plebescite in Palau resulted in a vote of 62 percent in favor of the Compact. Article XIII, sec. 6 of the Palau Constitution required a 75 percent vote due to concern over the interpretation of its prohibition on nuclear weapons, plants, and waste materials on the United States' ability to exercise its defense responsibilites including transit. Negotiations are continuing on how to reconcile the vote in favor of the Compact with the requirements of the Palau Constitution. On September 4, 1984, Palau conducted an internal referendum on a modified version of the Compact, which was approved by 67 percent of the voters.

On June 21, 1983, the FSM voted in favor of the Compact by 79 percent although one State, Ponape, voted against the Compact.

On September 7, 1983, the Marshall Islands voted in favor of the Compact by 58 percent.

After completion of the approval process by each of the two governments, the President transmitted the Compact to the Congress for approval on March 30, 1984. S.J. Res. 286 was introduced by Senator McClure, by request, on May 1, 1984 and referred to the Committee. The Committee conducted a hearing on May 24, 1984 and considered S.J. Res. 286 in open business session on September 12, 1984, unanimously reporting the Resolution favorably to the Senate with amendments.

A comprehensive background and history of the Trust Territory and the negotiations is set forth in the report of the Senate Committee on Interior and Insular Affairs to accompany H.J. Res. 549, to approve the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, 94th Congress, 1st Session, S. Rept. No. 94-433, October 22, 1975.

Compact of Free Association: The United States does not have nor claim sovereignty over the Trust Territory of the Pacific Islands, but exercises control as Administering Authority pursuant to a United Nations Trusteeship Agreement. The Compact, consequently, does not confer authority on the Micronesian governments, but rather provides the basis for termination of the United Nations Trusteeship and describes the relationship between each of the governments and the United States in the post-trusteeship period.

Title One generally describes the political relationship of free association. Each of the Micronesian Governments will be self-governing, exercising full control over both internal and external affairs except in the area of defense. Provision is made for consultation on foreign affairs and the United States agrees, at their request, to represent them and provide consular and othe assistance, including representation with respect to telecommunication matters. Provision is made for immigration, environmental protection, settlement of claims, (including those resulting from the nuclear testing program) and transition matters.

Title Two sets forth the nature and conditions of grant assistance to each of the Governments which would replace the current annual appropriations. In general, over the fifteen year period of the Compact, the United States will provide assistance for both operations and construction as well as block grants for health and education, maritime surveillance, operation of civic action teams, impact assistance for defense sites (the Coast Guard station on Yap and the Kwajalein Missile Range), alternative energy development, and communications. In addition, the United States will continue the activities of the Weather Service, Federal Emergency Management Agency, Postal Service, Federal Aviation Administration, and Civil Aeronautics Board. The United States also agrees to provide technical assistance and, upon the request of the local government, may extend other programs and assistance. The United States agrees to assume the authority of the High Commissioner over various trust funds established by the United States. The Title generally provides that the free associated states will be treated as if they were territories for the purposes of tax and trade.

Title Three provides that the United States will exercise plenary defense rights including the option to foreclose access to or use of the area by military personnel or for the military purposes of any third country. The title also covers continued United States operation of the Coast Guard station in Yap and the Kwajalein Missile Range and permits Micronesians to enlist in the U.S. Armed Forces and to enroll in the Coast Guard and Merchant Marine Academy.

Title Four provides for the effective date of the Compact, dispute resolution, amendment, termination, survivability, and definitions.

The Compact, like the Marianas Covenant, if approved will have been enacted as a matter of domestic law. The Administration has concluded various subsidiary agreements to implement the provisions of the Compact. These agreements were submitted to the Congress to explain how the Compact would be implemented but were not submitted for enactment. The subsidiaries are:

(a) Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association;

(b) Agreement regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association;

(c) Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association;

(d) Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association;

(e) Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association;

(f) Agreement Concluded Pursuant to Section 234 of the Compact of Free Association;

(g) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association;

(h) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 227, 321 and 323 of the Compact of Free Association;

(i) Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association; and

(j) Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association; and

(k) Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association.

The text of the subsidiaries is set forth in the Appendix.

Legislative History

The Committee on Energy and Natural Resources and its predecessor, the Committee on Interior and Insular Affairs conducted several oversight hearings on the progress of the negotiations since their inception in 1969 until their conclusion. During the 98th Congress S.J. Res. 286 was introduced by Senator McClure at the request of the Administration on May 1, 1984. The full Committee conducted a hearing on May 24, 1984. The measure was considered and ordered favorably reported with amendments by the full Committee in an open business meeting on September 12, 1984. The Senate did not consider S.J. Res. 286 prior to adjournment. The companion bill, H.J. Res. 620, was introduced on June 29, 1984. Several hearings were conducted in the House, but no Committee action was taken. S.J. Res. 77 was introduced by Senator McClure at the request of the Administration on March 7, 1985. The measure was considered and ordered favorably reported by the full Committee in an open business meeting on March 21, 1985. The Companion measure, H.J. Res. 187, was introduced in the House on March 7, 1985.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources in an open business session on March 21, 1985, considered S.J. Res. 77 and by unanimous vote of a quorum present recommends that the Senate pass S.J. Res. 77, if amended, as described herein.

The rollcall vote on reporting the measures was 16 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici*	
Mr. Wallop	
Mr. Warner*	
Mr. Murkowski	
Mr. Nickles	
Mr. Hecht*	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers*	
Mr. Ford	
Mr. Metzenbaum	
Mr. Bingaman	
Mr. Rockefeller	

*Indicates vote by proxy.

COMMITTEE AMENDMENTS

Amendment 1 clarifies that the approval of the Compact and the authorization to the President to implement its provisions is subject to the provisions of new section 4.

Amendment 2 clarifies that the allocation of funds to the Republic of Palau is to be made in accordance with the provisions of the appropriation measures which provided the funds.

Amendment 3 inserts three new sections in the Resolution. New section 4 clarifies that the Compact of Free Association is a domestic law of the United States and no change, modification, or alteration may be done other than by the passage of legislation. The Compact does provide that changes may be made by mutual agreement in most instances or unilaterally with respect to termination. The amendment clarifies that any such action by the United States may be done only by the enactment of legislation. The provisions of section 4 apply to all parts of the Compact as well as those subsidiary agreements the terms of which are incorporated by reference into the Compact and in addition to the two mutual security agreements. The limitation does not apply to agreements designed to implement various provisions, such as how program assistance is provided or eligibility determinations under various programs unless such an agreement amounts to a change or effective amendment of the provisions. Subsection (c) also provides that the determination pursuant to section 219 of unobligated funds to the FSM and the Marshalls will be only as provided in appropriation acts.

New section 5 continues the current open end authorization for the Trust Territory contained in the 1954 Act providing for the Civil Governance of the Trust Territory, as amended, beyond the effective date of the Compact for the authorizations contained in the Compact until the end of fiscal year 1986. It also continues that authorization indefinitely for transition and to fulfill any obligations of the U.S., such as completion of the capital infrastructure program and relocation of the capitols, the termination of the Trust Territory government and completion of the activities of the High Court, any health and education needs which result from exceptional circumstances such as disasters or the outbreaks of cholera and leprosy in the Federated States of Micronesia, future ex gratia contributions on behalf of the four-radiation affected atolls, and for technical assistance. Subsection (b) clarifies that any federal agency authorized to provide technical assistance may do so to either the FSM or the Marshall Islands even though they will be sovereign foreign governments. Subsection (c) continues the programs of the Public Health Service and Legal Services Corporation to both freely associated states and continues the Farmers Home Administration to the Federated States. Subsection (d) would permit the President to continue any federal program beyond the effective date of the Compact for a period not to exceed three years, if he determines such an extension would assist in transition. The Committee expects that the provision may be necessary if the effective date occurs other than at the start of a fiscal year or to provide an orderly phase out of a program.

New section 6 provides that the Secretary of the Interior shall have authority over any program or activity provided to the free associated states and that appropriations pursuant to the Compact shall be made to the Secretary. The section recognizes that in entering into the Compact the United States is assuming certain responsibilities and the Committee believes that, in light of over thirty years of administration of the Trust Territory, the Secretary is the most appropriate official to fulfill those responsibilities. The Secretary presently has responsibility for the provision of substantially similar assistance not only to the Trust Territory, but also to the territories of Guam, American Samoa, the Virgin Islands, and to the Northern Mariana Islands. The continuation of the Secretary of the Interior to provide assistance does not detract from the status of either the FSM or the Republic of the Marshall Islands as sovereign foreign states in free association with the United States. Grants at present are provided to Guam, the Marianas, the Marshall Islands and elsewhere on a government to government basis and the Committee expects that full recognition of self government will be reflected in the provison of such assistance. This section is consistent with both the continuation of current authorizations in section 5 and the conclusions of this Committee and the Budget Committee on how his funding should be provided. The section also provides that the head of each Federal agency is directed to cooperate with the Secretary and make available such personnel and services as the Secretary may request to fulfill U.S. obligations. The Committee expects that the Secretary will take advantage of and use the expertise of agencies such as the Departments of Energy, Commerce, State, Education, Transportation, Health and Human Services, and EPA, among others, including personnel to discharge his responsibility.

SECTION-BY-SECTION ANALYSIS

The Joint Resolution notes that the United States administers the Trust Territory pursuant to a Trusteeship Agreement with the United Nations which obligates the U.S. to promote development according to the freely expressed wishes of the peoples concerned and that the Compact, which was approved by both the Federated States of Micronesia and the Republic of the Marshall Islands in U.N. observed plebescites, has been approved by those governments.

SECTION 1

Section 1 approved the Compact and authorizes the President to implement it after proclaiming an effective date. Both approval and authorization are expressly conditioned on the provisions of section 4 which would require enactment of legislation to amend, change, or terminate any provision.

The provisions of the Compact are as follows:

The Compact of Free Association is divided into a preamble and four titles: Governmental Relations; Economic Relations; Security and Defense Relations; and General Provisions.

PREAMBLE

The Preamble states that the relationship which will exist between the United States and the two states emergent from the Trust Territory of the Pacific Islands is "Free Association."

The Preamble recognizes that the agreement is concluded on a government-to-government basis; that the peoples of the Trust Territory have and retain their sovereignty and their sovereign right to self-determination; that both the FSM and the Republic of the Marshall Islands, which will become Freely Associated States (FAS), are self-governing under their own constitutions; and that the political and legal relationship between the FAS and the United States is fully described and governed by the Compact. The Preamble recognizes the competence of the constitutional governments within the Trust Territory to enter into the Compact. Further, the Compact supports the legitimacy of the new political status as consistent with the goals of the United Nations trusteeship system and consequently as a basis for termination of the Trusteeship.

TITLE ONE

GOVERNMENTAL RELATIONS

Article I, Self-Government

Section 111. This section recognizes that the peoples of the FAS, acting through their constitutional governments, are self-governing. This recognition is the foundation of the government-to-government agreement and is consistent with the international political stutus of free association.

Article II, Foreign Affairs

Section 121. The United States, in this section, recognizes the capacity of the FAS to conduct foreign affairs in their own name and right. This includes the capacity to enter into treaties and other international agreements with other governments or international organizations, as appropriate.

The FAS agree in this section to conduct their affairs of state in accordance with international law and settle disputes by peaceful means.

Section 122. In this section, the United States agrees to support FAS participation and membership in regional and international organizations as may be mutually agreed from time to time.

This section also obligates the United States to accept qualified FAS citizens for training in the Foreign Service Institute. This program will contribute to FAS capabilities to meet the demands of their new political status and promote intergovernmental cooperation between the FAS and the United States.

Section 123. In this section, the FAS agree to consult with the United States in foreign affairs matters in recognition of the authority and responsibility of the United States under Title Three (security and defense relations).

This section also provides that the United States will consult with the FAS on foreign affairs matters which relate to or affect the FAS.

Section 124. This section authorizes the United States, upon request, to assist the FAS in foreign affairs matters. and includes a disclaimer of United States responsibility for actions of the FAS taken with the assistance or through the agency of the United States Government.

Section 125. This section is a disclaimer by the United States of responsibility for FAS actions in their exercise of their foreign affairs capacity.

Section 126. Under this section, the United States will provide, upon request, consular services to FAS citizens abroad as if they were United States citizens.

Section 127. This section provides for termination of all obligations, responsibilities, rights and benefits of the United States under any treaty made applicable to the Trust Territory during the Trusteeship. The continued application of such treaties to the FAS will be determined in accordance with international law, and will thus depend upon the relations between the FAS and other signatories of such agreements. However, under Title III and the separate agreements concluded pursuant thereto, defense treaties and international security agreements will continue in force.

Article III, Communication

Section 131. This section recognizes FAS authority and responsibility to control domestic and foreign communications, and enables the United States to represent the FAS before the International Telecommunications Union with respect to frequency registration and broadcast scheduling until the FAS choose to undertake that function themselves. This section also extends Federal Communications Commission jurisdiction to the FAS as regards the operations of satellite earth terminal stations operated by U.S. common carriers. Under this arrangement, the details of which are set forth in separate agreements, the FAS will be included in the United States telecommunications system for rate-making and other operational aspects relating to United States common carriers.

Section 132. This section ensures United States ability to operate telecommunications systems in the FAS in connection with its obligations under the Compact.

Article IV, Immigration

Section 141. This section effectively exempts FAS citizens meeting specified criteria from certain United States passport, visa, and work permit requirements and enables FAS citizens to enter, reside, be employed, attend school, or remain as visitors in the United States. Section 141 also recognizes the ability of the United States Congress to promulgate, or authorize the legislatures of United States territories to promulgate, non-discriminatory immigration laws or regulations applicable to FAS Citizens who wish to establish "habitual residence" in those U.S. territories. Habitual residence is defined as establishment of a place of general abode or principal, actual dwelling place of a continuing or lasting nature and of at least one year duration.

Finally, entry into the United States under the authority of Section 141(a) does not confer the right of FAS citizens to establish residency necessary for naturalization. Section 141(a), however, does not preclude FAS citizens from acquiring lawful permanent resident status by other means.

Section 142. FAS reciprocity for the open immigration arrangement provided under Section 141 is set forth in this section, under which United States citizens will be able to enter, reside and be employed in the FAS, subject only to FAS law providing for exclusion of undesirable aliens. Establishment of "habitual residence" in the FAS by United States citizens would also be subject to FAS law. This section also confers most favored nation status in immigration matters on United States citizens.

Section 143. The privileges set forth in Sections 141 and 142 will be lost to a citizen of an FAS or the United States who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of an FAS or the United States or fails to renounce such an existing citizenship or nationality within two years after the effective date of the Compact. Section 143 does not deny the privileges conferred by Sections 141 and 142 where citizenship is held in both an FAS and the United States or in more than one FAS.

Section 144. This section enables United States citizens to accept employment by an FAS government without losing their U.S. citizenship.

Article V, Representation

Sections 151–152. These sections provide for the establishment of resident representatives in the capitals of the United States and the FAS. Designated representatives are entitled to limited or functional immunity, exemptions and privileges in connection with the performance of official duties.

Section 153. This section exempts United States citizens who are employed by or represent an FAS from the provision of the Foreign Agents Registration Act and the Logan Act.

Article VI, Environmental Protection

Sections 161–163. The sections within this article establish a regulatory structure for United States governmental activities in the FAS. The United States agrees that it will adhere to the National Environmental Policy Act in its activities in the FAS, and that it will also comply with standards substantively similar to those required by other specified United States environmental laws. The United States and the FAS agree to develop additional environmental protection standards suited to unique conditions in the FAS. Under this structure, the FAS governments, but not individual citizens, will be able to seek judicial review of United States compliance in designated federal courts. As a reciprocal obligation the FAS agree to develop and enforce substantively similar standards for environmental protection with respect to their activities which are substantively similar to United States activities. The President of the United States may, after appropriate consultations with the FAS, exempt federal agencies from compliance where such exemption is determined to be in the "paramount interest" of the United States, consistent with Title Three of the Compact and the obligations of the Government of the United States under international law. The Committee expects that similar consultations will be held with the Congress.

This article was negotiated to address a fundamental FAS concern about preservation of the fragile ecology of their islands and their resultant desire that a commitment to adhere to the high standards of environmental care and protection embodied in United States law be articulated in the Compact.

Article VII, General Legal Provisions

Section 171. Because the United States has extend United States laws to the Trust Territory of the Pacific Islands only by virtue of the Trusteeship Agreement, with the exception of laws of general extraterritorial applicability, this section operates to terminate the application to the FAS of any laws of the United States whenever made applicable to the Trust Territory of the Pacific Islands or any part thereof, unless they are specifically made applicable by the Compact or are of general extraterritorial applicability. The basic authorization for the Trust Territory contained in the 1954 Act is discussed in the explanation of the Committee amendment adding a new section 5.

Section 172. This section provides that citizens of the FAS not residing in the United States shall be entitled to the same rights and privileges as any other non-resident aliens and that they shall be treated as "persons" within the meaning of the Administrative Procedures Act and of the Freedom of Information Act. It should also be noted that a United States citizen who becomes a citizen of an FAS and who does not renounce his United States citizenship would retain his United States citizenship and continue to be entitled to the same rights and privileges as any other United States citizen.

Section 173. The United States and the FAS undertake positive obligations to protect the programs, personnel, property and facilities of the other which are connected with public and official functions specified in the Compact or its related agreements.

Section 174. Subsections (a) and (d), taken together, provide that the FAS governments will be immune from jurisdiction of the courts of the United States, and vice versa, except when the defendant government is sued in connection with commercial activities, personal injury, death or damage to or loss of property.

Subsections (b) and (c) of this section set forth the procedure for payment of claims against the Trust Territory Government or the United States arising from acts or omissions of either such government prior to the effective date of the Compact. All unpaid judgments against the Trust Territory Government or the United States entered prior to the effective date of the Compact, or settlements reached. will be paid by the United States. All claims against the Trust Territory or United States which are not resolved prior to the effective date of the Compact or which arise afterwards, will be adjudicated in the courts of the FAS, but any judgment of those courts will be presented for certification to the United States Court of Appeals for the Federal Circuit which shall order payment of such judgment, unless it is manifestly erroneous in law or fact, or is manifestly excessive. In this latter situation, that court shall have jurisdiction to modify the judgment.

Section 175. This section provides for the negotiation of separate agreements regarding extradition, mutual assistance in law enforcement and transfer of prisoners. These agreements shall have the force of law and shall be similar to arrangements which the United States has with other nations. The agreements are set forth in the Executive Communications.

Section 176. This section preserves judgments established in civil litigation during the Trusteeship by the courts of the Trust Territory, subject to the power of the courts of the FAS derived from their respective constitutions to modify judgments in appropriate cases.

Section 177. In this section, the United States accepts responsibility for compensation owing to citizens of the FAS for loss or damage to person and property resulting from the nuclear testing program conducted by the United States in the Northern Marshall Islands between 1946 and 1958. This section also provides that the United States Government and the Government of the Marshall Islands shall set forth in a separate agreement provisions for a full and complete settlement of all uncompensated claims which have arisen as to the Marshall Islands and its citizens. The separate agreement is also to contain agreed provisions for medical services and radiological monitoring as well as utilization of affected lands. This agreement has been concluded, is incorporated into the Compact, and provides for the establishment of a $150 million fund to finance the pruposes of this agreement. This agreement settles all Marshall Islands claims arising from the nuclear testing program. The text of the agreement is set froth in the Executive Communications.

Section 178. This section enables federal agencies providing services and programs in the FAS to settle and pay tort claims arising from their activities in the FAS pursuant to the administrative procedures set forth at 28 U.S.C. 2672. Claims not resolved through that procedure will be referred to arbitration under the conference and dispute resolution process set forth in Title Four, Article II, of the Compact. In both cases, payment shall be made pursuant to 31 U.S.C. 1304. The United States will be immune from suits based on claims covered by the provisions of this section.

TITLE TWO

ECONOMIC RELATIONS

Article I, Grant Assistance

Section 211. This section sets forth the basic grant assistance constituting the economic foundation of free association. The fundamenal concept underlying the grant assistance is that the FAS will be provided with the resources to implement development programs and provide public services appropriate to conditions and needs as determined by the FAS. A capital account and a current account will be established from grant funds, to be used for economic development and government operations, respectively.

In order to enable the FAS to undertake economic development programs at the outset of the initial fifteen-year term of free association, the grant assistance package was structured to provide maximum "front-end loading" of grant funding, while at the same time spreading out funding levels over the entire fifteen-year period to ensure that minimum needs can be satisfied and that economic stability can be preserved throughout the initial period of free association. Thus, at the fifth and again at the tenth anniversary of the effective date of the Compact, the amounts of grants will be reduced from the higher levels provided during the first five years.

This section also calls for each of the FAS to establish official development plans and each FAS agrees that during the term of the Compact an average of no less than 40 percent of designated grant funding will have been dedicated to capital account activities as set forth specifically in the plans. This section recognizes that achievement of the goals of the economic development plans may be affected by the impact of exceptional, economically adverse circumstances. Each FAS is to report annually to the President and the Congress on the implementation of the plans and the use of grant money.

Section 212. This section provides for fourteen annual payments to the FSM, commencing on the first anniversary of free association, for development, which may be used to pay certain account expenditures for the operations of United States military Civic Action Teams made available to the FSM under Section 227.

Section 213. This section provides that the specified scheduld amounts provided therein to the Governments of the Marshall Islands and the Federated States of Micronesia shall be used by them to offset the impact of any United States military activities conducted pursuant to Section 321(a) and its separate agreements.

Section 214. This section provides for fourteen annual payments, commencing on the first anniverary of free association, for energy production in the FAS. These grants are provided with the goal of increasing FAS energy self-sufficiency.

Section 215. This section provides annual grants in support of current account communications operations and for other current or capital account activities which may include purchase of communications facilities and equipment now located in the Trust Territory, including the new COMSAT earth stations.

Section 216. This section provides annual grants for maritime zone surveillance and enforcement, medical referral transportation and other health services, and post-secondary educational scholarship programs. This funding is augmented by a United States "start-up" contribution for surveillance, and is to be divided among the FAS as agreed among those governments.

Section 217. This section provides for an annual adjustment of the grants provided under Sections 211, 212, 214, 215 and 231 (excluding Sections 212, 213 and 216 funds as referenced therein) by two-thirds of the percentage annual change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less.

Section 218. This section provides that grant funds appropriated for any year will survive beyond the expiration of that year and remain available for expenditure without reducing subsequent grant payments.

Section 219. This section provides that unobligated Trust Territory Government funds will remain available to the FAS Governments according to the purposes of the act appropriating such funds. Any unexpended balances of such funds shall be returned to the United States.

Article II, Program Assistance

Section 221. While the FAS will fund the basic functions of government from grant assistance and FAS revenues, performance of certain activities may be beyond the technical capability of the new governments at the outset of free association. Thus, the United States has agreed in Section 221(a) to continue to provide services of the United States Weather Service, the United States Federal Emergency Management Agency, the United States Postal Service, the Federal Aviation Administration and the Civil Aeronautics Board. Enactment of Section 221(a) by Congress provides the legislative authority for provision of these services. The specific arrangements for provisions of these services are set forth in a separate agreement.

Subsection (b) provides a $10 million annual grant to be shared by the FAS as follows: Marshall Islands $3 million; and FSM $7 million. This grant funding, coupled with the scholarship and health service funding set forth in Section 216, will enable the FAS to augment current account expenditures in the field of education and health services and tailor such activities as scholarship programs and medical referral activities to FAS needs.

Subsection (c) provides that alternate energy development programs which were extended to the Trust Territory will continue after the effective date of the Compact and be available to the FAS subject to the terms set forth in United States law with respect to the scope and duration of such programs. This includes those projects included in the territorial Energy Assessment Report prepared pursuant to Public Law 96-597.

Subsection (d) defines United States authority incident to implementing program assistance.

Section 222. This section acknowledges that continuing consultation may be called for in order to ensure that the federal services provided under Section 221(a) are appropriate to the evolving developmental needs of the FAS.

Section 223. This section ensures that those Trust Territory students embarked upon a course of study at a United States-accredited post-secondary institution and who receive Federal student financial assistance will be able to continue to receive such assistance for the duration of the individual academic programs up to four years following the effective date of the Compact.

Section 224. This section provides that the United States and the FAS may agree on the extension of federal programs, assistance, or services to the FAS in addition to those specified in the Compact. While the grant assistance and services provided by Title Two constitute a negotiated and agreed package, this section enables the United States and the FAS to adjust to changing conditions and needs by establishing such additional programs as may be authorized by United States law.

Section 225. In order to enable the United States to fulfill its commitment to provide programs and services in support of FAS development efforts, the FAS will be obligated under this section to provide at no cost land required for federal agency activities, and to allow agencies already present in the Trust Territory to continue use of existing facilities at no cost, or make mutually agreeable alternative arrangements.

Section 226. Under this section, United States Government agencies which have statutory authority to provide technical assistance on an intergovenmental or international basis, or to territories or possessions of the United States, will be able to provide such technical assistance to the FAS upon request. In light of the free association relationship, FAS requests for technical assistance will be given priority consideration over requests of other nations eligible for such assistance.

Section 227. This section provides that United States military Civic Actions Teams (CAT) will be provided to the Federated States of Micronesia under the terms set forth in a separate agreement which, among other things, defines FSM obligations to provide land, building materials and other support for CAT projects.

Article III, Administrative Provisions

Section 231. This section provides for negotiations commencing on the thirteenth anniversary of the Compact regarding the future political relationship between the United States and the Marshall Islands and the FSM.

If these negotiations are not concluded by the fifteenth anniversary, all of the provisions of the Compact, including U.S. defense rights under Title Three, will remain in effect for an additional two years and continue to be implemented according to their original terms. However, the United States will provide the average of annual amounts of the assistance which had been provided during the initial fifteen year period under Sections 211 (grant assistance); 212 (FSM Civic Action Teams funding); 213 (United States payments for military operating rights in FAS); 214 (FAS energy production funds); 215 (communications grants); and 216 (FAS marine surveillance, medical service and scholarship funding). The inflation adjustment provided under Section 217 will apply to these averaged annual amounts (excluding Sections 212, 213 and 216 funding). This continuation of support during the sixteenth and seventeenth years will ensure the preservation of the economic stability of the FAS and United States defense rights while the United States and the state concerned negotiate a continuation of free association or a different political relationship. Free association will not terminate automatically, but may be terminated by unilateral action of any signatory or mutual agreement between the United States and either or both of the FAS except that such action by the United States may be only pursuant to enactment of legislation.

Section 232. This section provides that the program assistance to be made available under Section 221 be defined in separate agreements. The levels and duration of such assistance, and the legal parameters within which federal agencies will operate—including the legal status of their employees, payment of claims, entry and departure of employees and other similar matters—are dealt with in the comprehensive agreement negotiated pursuant to this section. Under that agreement, federal agency civilian employees will enjoy certain privileges, exemptions and limited immunity from FAS laws, including tax laws, and federal agencies are assured the operational freedom necessary to carry out their responsibilities.

Section 233. This section authorizes the United States to conduct audits of grant and program assistance provided to the FAS under Articles I and II of Title Two. These audits will enable the United States to determine if the FAS have met the requirements set forth in the Compact and its separate agreements regarding the purposes for which funds and program assistance are to be used and the propriety of their financial transactions. The procedures for conduct of the audits will be the subject of consultation to ensure that institutional integrity is preserved, and that the United States will have full access to financial information relating to Compact funding. The procedures for conducting the audit and obtaining annual reports and other financial information as required by the Compact are the subject of a separate agreement of fiscal procedures between the United States and the FAS.

Section 234. This section provides for the transfer to the FAS at no cost United States property located in the Trust Territory for which there is no continuing U.S. need. This transfer process is largely complete. Transfer of federal property began in the Trust Territory in 1980, pursuant to Section 402 of United States Public Law 96-597.

Section 235. During the Trusteeship, trust funds have been established for the benefit of various groups of Trust Territory citizens, such as those affected by the United States nuclear testing programs in the Marshall Islands. This section provides for appointment by the United States of a new trustee to replace the High Commissioner as trustee of such funds, so that the initial legislative intent in creating the funds can be carried out. The United States also agrees to carry out such functions of government formerly exercised by the High Commissioner as are necessary to implement the provisions of a particular trust. For instance, the High Commissioner is currently required to make certain determinations and exercise certain administrative functions in connection with trust funds. Under the Compact, this will be undertaken by the United States.

Section 236. This section pledges the full faith and credit of the United States for payment of the amounts provided for under Articles I and III of Title Two. A similar pledge is contained in the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States. This pledge is intended to create an enforceable obligation of the United States to pay the amounts provided for in Articles I and III. While this obligation will be discharged in the same manner as other financial obligations incurred through international agreements requiring an act of appropriation, the FAS are provided with a judicial remedy before the United States Claims Court in the event payments owing under the Compact are not made. Because the Compact will be both an international agreement and public law, this is a valid grant of jurisdiction which contains an express exception for the FAS from the restriction contained in 28 U.S.C. 1502 relating to actions arising from treaties with foreign nations. Any judgments resulting from an action by an FAS under this section would be paid under 31 U.S.C. 1304.

Article IV, Trade

Sections 241–243. These sections provide that the FAS will not be within the customs territory of the United States, and will be able to export products to the United States duty free under the same general treatment which United States insular possessions receive under General Headnote 3(a) of the United States Tariff Schedule. FAS articles not covered by General Headnote 3(a) and United States articles imported into the FAS will be entitled to generally applicable most favored treatment.

Article V, Finance and Taxation

Section 251. This section establishes United States currency as the legal tender of the FAS, but gives each FAS the option to issue its own currency; in which case appropriate transitional arrangements would be agreed upon.

Section 252. This section recognizes the jurisdiction of the FAS to tax any United States persons income which is derived from FAS sources, and applies United States tax laws to determine income source.

Section 253. All FAS citizens domiciled in the FAS will be exempt from United States income tax on fixed or determinable annual income, estate gift and generation-skipping transfer taxes. It is intended that questions of citizenship and domicile for individual persons in the FAS will be determined under the laws of the respective FAS (see Section 142(a) of the Compact).

Section 254. Persons who reside in the FAS will not have to pay any otherwise applicable United States tax in income which is taxed by the FAS, even where such income is derived from sources outside the FAS.

Section 255. While Sections 253 and 254 are intended to provide incentives for immigration to and investment in the FAS for individuals, this Section provides tax incentives for investments primarily by corporations. The tax incentives provided are those longstanding provisions of the United States Internal Revenue Code applicable to possessions of the United States that were designed, like the tax provisions of the Compact, to generate United States investment in developing areas which enjoy a special relationship with the United States. These incentives, as in effect on January 1, 1980, will apply to the FAS to the extent not in conflict with Compact Sections 253 and 254. If the provisions of the Internal Revenue Code applicable to the FAS under this Section are amended after January 1, 1980, the prior law will continue to apply for two years after the effective date of such amendment while alternative but substantively equivalent tax arrangements are negotiated.

TITLE THREE SECURITY AND DEFENSE RELATIONS

Article I, Authority and Responsibility

Section 311. This section establishes as part of the free association relationship defined in the Compact the full authority and responsibility of the United States for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia. This United States authority and responsibility includes the foreclosure of any third country access to the FAS for military purposes, and the ability to establish military facilities and the exercise of military operating rights in accordance with separate agreements authorized by this section. Of fundamental significance is the undertaking of the United States during the free association relationship to defend the FAS and their citizens as the United States and its citizens are defended.

Section 312. This section gives the United States the right to conduct military operations and activities in the FAS necessary for the exercise of its authority and responsibility for security and defense matters under the Compact. Such operations and activities are to be undertaken in accordance with separate agreements on military use and operating rights and status of forces.

Section 313. To ensure that the actions of the FAS governments do not impair the ability of the United States to exercise its authority and fulfill its responsibility in security and defense matters, the FAS agrees in this section to refrain from actions which the United States determines to be incompatible with the United States security and defense role defined in the Compact. The purpose of this provision is to preserve the allocation of authority and responsibility for domestic and foreign affairs to the FAS, and for security and defense to the United States.

To ensure that any U.S. determination requiring the FAS to refrain from a particular action is made on the basis of full information, the United States will consult with the FAS prior to making any final determination. The FAS are entitled to raise with the Secretaries of State and Defense, personally and on an expeditious basis, any concerns which might arise from a United States action under this provision.

Section 314. This section provides that unless otherwise agreed the United States will not test by detonation, dispose or discharge within the FAS certain harmful substances or weapons, and will not store substances intended for use in such weapons except in the event of war declared by Congress, a national emergency declared by the President or to defend against actual or impending attack.

This section requires any storage by the United States of substances or materials referenced in this section in the FAS to be in a manner consistent with applicable international guidelines to which the United States adheres, as well as applicable United States laws, in order to protect public health and safety in the FAS.

Section 315. This section enable the United States to permit third countries to have access to United States military areas and facilities in the FAS. Except in the case of transit and overflight, the United States is required to consult with the FAS on third country access, and in the case of major units to obtain approval

Section 316. This section prohibits assignment or transfer of United States authority and responsibility for security and defense of the FAS to another country.

Article II, Defense Facilities and Operating Rights

Section 321. This section provides for separate agreements to be concluded between the United States and the FAS for the establishment and use of military areas and facilities of the United States in the FAS in connection with United States security and defense authority and responsibility. This section also sets forth the framework for agreement between the United States and the FAS for additional military areas and facilities should they be required in the future, and acknowledges that the United States will seek minimum areas necessary to carry out its security and defense responsibilities.

Section 322. In connection with its security and defense activities, the United States will provide and maintain certain fixed and floating aids to navigation in the FAS. This activity will also promote civilian shipping in the islands, which will continue to benefit from U.S. Coast Guard assistance with navigational aids.

Section 323. Pursuant to this section, the United States and the FAS have concluded comprehensive agreements on military use and operating rights (MUORA) and status of forces (SOFA). These agreements are modeled on similar arrangements the United States has entered into with other countries. Bilateral MUORAs have been concluded with each of the member states of the FAS addressing the specific needs and requirements of the United States in each of these states. The MUORAs make available to the United States certain defense sites and facilities for its use in the FAS and detail the operating rights that may be exercised in the use of such areas.

The SOFA is a multilateral agreement which defines the rights and obligations of United States Armed Forces and their personnel in the FAS. Specifically, the SOFA defines the protections afforded to personnel under the SOFA and addresses such issues as entry and exit requirements, use of contractors and employment of labor, tax and customs relief, criminal jurisdiction, applicability of local law, payment of claims, medical and postal services, telecommunications, and other related matters.

Article III, Defense Treaties and International Security Agreements

Section 331. If in keeping with United States responsibility and authority for security and defense matters in the FAS, this section provides that security and defense agreements or treaties to which the United States is a party, and which have applied to the Trust Territory during the Trusteeship, will continue in force and be applied by the United States in the exercise of its security and defense role in the FAS. In addition, the United States retains the authority to extend to the FAS any security or defense agreements or treaties it may determine to be applicable, after appropriate consultation with the FAS governments. This arrangement is necessary in light of United States treaty obligations in the region.

Article IV, Service in the Armed Forces

Sections 341 and 342. FAS citizens will be entitled under these sections to serve voluntarily in the armed forces of the United States, but cannot involuntarily be induced into such service unless habitual residence in the United States is established. In addition, upon nomination by their governments and if otherwise qualified, FAS citizens will be enrolled in the United States Coast Guard Academy and in the United States Merchant Marine Academy. The service and training available in the armed forced and the designated academies will provide educational opportunites not available in the FAS.

Article V, General Provisions

Section 351. Under this section, two bilateral Joint Committees are established for the purpose of resolving disputes arising from implementation of Title Three and the separate agreements concluded pursuant to sections within Title Three. The senior United States military commander in the Pacific will represent the United States on each committee, and the FAS will designate appropriate senior officials as representatives. The purpose of the Joint Committee is to provide a forum for consultation regarding issues related to Title Three. Any matter which the Committee cannot resolve is referred back to the governments concerned for resolution. The FAS concerned may also raise the matter with the Secretary of Defense, if desired. It is contemplated that the Joint Committee system will enable the FAS and the United States to consult, and by consensus resolve problems arising under Title Three.

Section 352. This section contains a U.S assurance that in fulfilling its security and defense role, and in making the specific determinations incident to its authority under Title Three of the Compact, the United States will accord due respect to the authority and responsibility of the FAS governments as defined in the Compact.

Section 353. This section addresses FAS concerns arising in large part from the experience of World War II. Under this provision, the United States agrees not to include the FAS in a formal declaration of war without the consent of their governments.

In the absence of FAS consent to be named as parties in a declaration of war, this section preserves claims of FAS citizens arising from armed conflict incident to belligerence or war. Claims will be perserved under this provision which are in the form of petitions for redress to the Government of the United States, and in the case of third countries all types of claims will be unimpaired by this section. Where FAS citizens petition the United States for redress under this section, their claims will be treated as if they were the claims of United States citizens.

Section 354. Under subsection (a) of this section, the provisions of Title Three will survive and apply for a period of fifteen years in the Marshall Islands and the FSM, even if the Compact is unilaterally terminated earlier by any signatory government. In other words, the security and defense relationship established by Title Three will continue as agreed upon even if the political relationship of free association is terminated. Only by mutual agreement to terminate or amend Title Three can the security and defense relationship be altered. Such agreement on behalf of the United States may be done only by the enactment of legislation.

In conjunction with Articles IV and V of Title Four (which provide for continuation of certain Compact sections, including economic assistance, in the event of Compact termination), subsection (a) represents United States and FAS agreement that their mutual interests will be served by maintaining, for an agreed minimum period, the security, defense and economic stability provided for in the Compact even if the free association relationship is terminated.

Subsection (b) provides that even if Title Three were to expire or be terminated, the United States will provide protection to the Marshall Islands or the Federated States of Micronesia for the period in which separate agreements concluded pursuant to Sections 321 and 323 are in effect. Under those separate agreements, the military use and operating rights of the United States (except those with the FSM) as well as U.S. authority to deny third country military access, have a duration which exceeds the initial term of the Compact (see analysis of Section 454) and the defense guarantee by the United States set forth in this provision will continue, consequently, for those longer periods. That United States commitment requires that a threat to the peace and security of the Marshall Islands or the Federated States of Micronesia be treated as a threat to the peace and security of the entire region and a danger to the United States. In the face of such a threat, the United States would take action to meet that danger in accordance with its constitutional processes.

TITLE FOUR

GENERAL PROVISIONS

Article I, Approval and Effective Date

Sections 411-412. Under these sections there is established a four-step process for approval and entry into force of the Compact. This process includes approval by the FAS governments in accordance with their constitutional processes and approval of the Compact by the peoples of the Marshall Islands and the Federated States of Micronesia. The procedure for popular approval is set forth in Section 412, which calls for a plebiscite on future political status constituting a free and informed act of self-determination.

The approval process also requires approval of the Compact by the United States, and agreement between the United States and the governments concerned on its effective date. Once so approved, the United States, as administering authority of the Trusteeship, will make appropriate arrangements for termination of the Trusteeship Agreement with the United Nations.

Article II, Conference and Dispute Resolution

Sections 421-424. These sections establish the method for settlement of disputes arising in connection with the implementation and enforcement of the provisions of the Compact except for matters arising out of Title Three, which will be handled as provided for in Section 351. The procedure for dispute resolution requires that upon notification of a dispute, the parties confer on the matter. After a 90-day period, if the issue has not been resolved, the matter is referred to a three-person Arbitration Board consisting of one member appointed by each of the parties and a chairman jointly appointed by the parties or selected by lot from standing lists if mutual agreement cannot be reached. Decisions will be by majority vote and shall be binding on the parties unless it is agreed that the decision shall be advisory. The Board will also not have jurisdiction in matters arising under the environmental protection provisions of Article VI, Title One, and the general legal provisions of Article VII, Title One, except for Section 178.

Article III, Amendment

Sections 431–432. These sections provide for bilataral and multilateral amendment of the Compact by mutual agreement of the parties affected by such amendments. Such agreement by the United States may occur only by the enactment of legislation.

Article IV, Termination

Sections 441–443. The Compact provides three avenues for its termination. Under Section 441, the Compact may be terminated by mutual agreement of the United States and one, or all, of the FAS. Such agreement by the United States may occur only by the enactment of legislation.

Section 442 provides for unilateral termination initiated by the United States, in which case prior notice of no less than six months is required before termination is effective. Such action by the United States may occur only by the enactment of legislation.

Termination by unilateral action of the FAS is provided for in Section 443, which requires an FAS government which intends to terminate to conduct a plebiscite on termination in accordance with its constitutional processes. A majority vote in favor of termination is required for termination to occur. The plebiscite can be conducted only upon three months' prior notice to the United States, and termination pursuant to an affirmative vote to end the agreement would not become effective until at least three months after certification of the results to the United States and notification that termination will occur.

Article V, Survivability

Sections 451–453. These sections identify which portions of the Compact would survive, and for how long, under the different termination procedures described in Article IV of Title Four.

Should the Compact be terminated by mutual agreement pursuant to Section 441, the continuation of economic relations between the United States and the FAS would be as mutually agreed.

Should termination occur at United States initiative under Section 442, provisions of the Compact relating to the following subjects would remain in the effect until the fifteenth anniversary of the effective date of the Compact, or longer if mutually agreed: immigration, environmental protection, legal relations, the nuclear claims settlement with the Marshall Islands, grant assistance audits, security and defense relations, dispute resolution, amendment, survivability and definitions of terms. In addition, the United States would continue to provide all grant assistance and either the Federal programs and services specified in Article II of Title Two, or their equivalent in funds—as determined by the U.S.—until the fifteenth anniversary of the effective date of the Compact.

Should termination result from unilateral FAS action under Section 443, provisions of the Compact relating to the following subjects would remain in effect until the fifteenth anniversary of the effective date of the Compact, or longer if mutually agreed: immigration, environmental protection, legal relations, the nuclear claims settlement with the Marshall Islands, security and defense relations and dispute resolution. In addition, the United States would consult with the FAS terminating the Compact to determine what economic assistance the United States would provide, after termination, until the fifteenth anniversary of the effective date of the Compact with the proviso that the grant assistance provided in Sections 211, 212(b), 214, 215—as adjusted pursuant to Section 217—and 216 would continue without diminution.

Section 454. Under subsection (a) of this section, the United States acknowledges its interest in promoting the long-term economic advancement and self-sufficiency of the peoples of the Marshall Islands and the Federated States of Micronesia.

Subsection (b) of this section provides that the separate agreements concluded pursuant to Article II of Title Three will remain in effect according to their terms notwithstanding termination of the Compact or the appplication of any other provision of the Compact. This provision will continue the SOFA and the following agreements in effect for these terms:

Marshall Islands:

Military Use and Operating Rights—up to thirty years from the effective date of the Compact.

Mutual Security—until terminated or otherwise amended by mutual agreement. Such agreement by the United States may occur only by the enactment of legislation.

Federated States of Micronesia:

Military Use and Operating Rights—fifteen years from the effective date of the Compact.

Mutual Security—until terminated or otherwise amended by mutual agreement. Such agreement by the United States may occur only by the enactment of legislation.

Section 454 also preserves, for the duration of the military use and operating rights agreements, the grant assistance obligations contained in Section 213, which relate to payments to offset the impact of U.S. defense activities in the FAS.

Article VI, Definition of Terms

Sections 461-462. These sections define various terms used in the Compact, and list the separate agreements concluded pursuant to the Compact. The agreements are set forth in the Appendix.

Section 463. This section incorporates by references certain United States statutes, differentiating between those laws which, for purposes of the Compact, will remain as they were on January 1, 1980, and those which will change consistent with amendments of a general nature enacted thereafter.

Article VII, Concluding Provisions

Section 471. Under this section, all signatory governments agree that they are authorized by their constitutions and laws to enter into and implement the Compact and its related agreements. This section also provides that the FAS and the United States will conform their laws to the Compact prior to its effective date, so that they will be able to implement the Compact in a manner consistent with their domestic laws. Finally, in fulfillment of the obligation of the Government of the United States under paragraph (b) of this section to ensure that its laws conform with the provisions of the Compact, paragraph (c) of this section provides that the Compact will have the force and effect of a satute under the laws of the United States.

Section 472. This section provides for acceptance of the Compact by the signature of each government party to the agreement.

SECTION 2

This section provides for United States court jurisdiction in criminal cases over which the United States acquires the primary right to exercise criminal jurisdiction under the provisions of the Status of Forces Agreement concluded pursuant to Section 323 of the Compact.

SECTION 3

This section provides for the continued eligibility of the Republic of Palau for the proportion of Federal financial assistance it is eligible to receive under the laws of the United States generally applicable to the Trust Territory of the Pacific Islands.

Sections 4, 5, and 6 are discussed in the Committee amendments.

COST AND BUDGETARY CONSIDERATIONS

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 1985.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S.J. Res. 77, a joint resolution to approve the Compact of Free Association, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, March 21, 1985.

The resolution approves the Compact of Free Association which has been signed by the United States, the Federated States of Micronesia and the Republic of the Marshall Islands. Title I of the compact terminates the United States' trusteeship of the Trust Territory of the Pacific Islands and establishes the Federated States of Micronesia and the Republic of the Marshall Islands. Title II lists the amounts and purposes of the grants that the United States will provide. Title III defines the roles of the U.S. government and the governments of the Federated States of Micronesia and the Republic of the Marshall Islands in defense matters, and Title IV provides rules for approving, amending, and terminating the compact.

The potential budget effects of the compact would result from the grants the United States is agreeing to provide to Micronesia and the Marshall Islands. According to Section 236 of the compact, its approval constitutes a pledge of the full faith and credit of the United States for full payment of the amounts specified for most of the grants, with the obligations enforceable in the courts. Under current law, grant programs for the Trust Territory are authorized indefinitely and without limitation, and the amounts are set through annual appropriations. Since, under current law, there are no set grant amounts authorized or appropriated for future years, there is no definitive basis for determining whether the grant levels specified in the compact would be more or less than would otherwise have been provided.

The largest increase relative to the CBO baseline projections under current law is the $150 million authorized to be paid to the Government of the Marshall Islands for losses and damages resulting from the U.S. government's nuclear testing program. It is difficult to compare the amounts of other grants to the baseline levels, because they span parts of a number of federal programs and the baseline amounts cannot be readily determined. At least 85–90 percent of the other grants authorized are reflected in the CBO baseline.

The following table summarizes the estimated grant amounts established in the compact, assuming that the compact takes effect by October 1, 1985.

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990
Full faith and credit—direct spending provisions:					
Estimated budget authority	121	118	121	123	125
Estimated outlays	121	118	121	123	125
Amounts subject to appropriation action:					
Authorization level	179	28	28	27	25
Estimated outlays	179	28	28	27	25
Total:					
Estimated budget authority/authorization	299	146	148	150	151
Estimated outlays	299	146	148	150	151

The spending authorized by the compact would affect budget functions 150 and 800. Enactment of this bill would not affect the budgets of state or local governments. If you wish further details on this estimate, we will be pleased to provide them. With best wishes,

Sincerely,

Eric Hanushek
(For Rudolph G. Penner, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred on the passage of S.J. Res. 77.

It is the Committee's expressed opinion that the bill is not a regulatory measure in the sense of imposing Government—established standards of significant responsibilities on private individuals or businesses. It also is the Committee's opinion that little, if any, additional paperwork would result from enactment of S.J. Res. 77.

EXECUTIVE COMMUNICATIONS

The pertinent documents submitted by the President transmitting S.J. Res. 77 are as follows:

TO THE CONGRESS OF THE UNITED STATES:

There is attached a draft of a Joint Resolution to approve the "Compact of Free Association," the negotiated instrument setting forth the future political relationship between the United States and two political jurisdictions of the Trust Territory of the Pacific Islands.

The Compact of Free Association is the result of more than fourteen years of continuous and comprehensive negotiations, spanning the administrations of four Presidents. The transmission of the proposed Joint Resolution today, and Congressional enactment of it, marks the last step in the Compact approval process.

The full text of the Compact is part of the draft Joint Resolution, which I request be introduced, referred to the appropriate committees, and enacted. I also request that the Congress note the agreements subsidiary to the Compact. Also attached is a section-by-section analysis to facilitate your consideration of the Compact.

I originally submitted this same draft Joint Resolution to the 98th Congress on March 30, 1984. Before their adjournment, both Houses held extensive hearings on the Joint Resolution. The Administration stands by the policies it outlined during these hearings and hopes that they will serve to expedite consideration and approval of the Compact in this new Congress.

The defense and land use provisions of the Compact extend indefinitely the right of the United States to foreclose access to the area to third countries for military purposes. These provisions are of great importance to our strategic position in the Pacific and enable us to continue preserving regional security and peace.

Official Committee File

Since 1947, the islands of the Trust Territory have been administered by the United States under a Trusteeship Agreement with the United Nations Security Council. This Compact of Free Association with the governments of the Marshall Islands and the Federated States of Micronesia would fulfill our commitment under that Agreement to bring about self-government in accordance with the freely expressed wishes of the peoples concerned. Upon termination of the Trusteeship Agreement, another political jurisdiction of the Trust Territory -- the Northern Mariana Islands -- will become a commonwealth of the United States.

The Compact was signed for the United States by Ambassador Fred M. Zeder, II, on October 1, 1982, with the Federated States of Micronesia, and on June 25, 1983, with the Republic of the Marshall Islands. It is the result of negotiations between the United States and broadly representative groups of delegates from the prospective freely associated states.

In 1983, United Nations-observed plebiscites produced high voter participation, and the Compact was approved by impressive majorities. In addition to approval in the plebiscites, the Compact has been approved by the governments of the Marshall Islands and the Federated States of Micronesia in accordance with their constitutional processes.

Enactment of the draft Joint Resolution approving the Compact of Free Association would be a major step leading to the termination of the Trusteeship Agreement with the United Nations Security Council, which the United States entered into by Joint Resolution on July 18, 1947. Therefore, I urge the Congress to approve the Compact of Free Association.

Ronald Reagan

THE WHITE HOUSE,
    February 20, 1985.

A JOINT RESOLUTION

FEB 21 1985

To approve the "Compact of Free Association", and for other purposes.

Whereas the United States is the administering authority of the Trust Territory of the Pacific Islands under the terms of the Trusteeship Agreement for the former Japanese Mandated Islands entered into by the United States with the Security Council of the United Nations on April 2, 1947, and approved by the United States on July 18, 1947; and

Whereas the United States, in accordance with the Trusteeship Agreement, the Charter of the United Nations and the objectives of the international trusteeship system, has promoted the development of the peoples of the Trust Territory toward self-government or independence as appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned; and

Whereas the United States, in response to the desires of the peoples of the Federated States of Micronesia and the Marshall Islands expressed through their freely-elected representatives and by the official pronouncements and enactments of their lawfully constituted governments, and in consideration of its own obligations under the Trusteeship Agreement to promote self-determination, entered into political status negotiations with representatives of the peoples of the Federated States of Micronesia, and the Marshall Islands; and

Whereas these negotiations resulted in the "Compact of Free Association" which, together with its related agreements, was signed by the United States and by the the Federated States of Micronesia and the Republic of the Marshall Islands on October 1, 1982 and June 25, 1983, respectively; and

Whereas the Compact of Free Association was approved by majorities of the peoples of the Federated States of Micronesia and the Marshall Islands in United Nations-observed plebiscites conducted on June 21, 1983 and September 7, 1983, respectively; and

Whereas the Compact of Free Association has been approved by the Governments of the Federated States of Micronesia and the Marshall Islands in accordance with their respective constitutional processes, thus completing fully for the Federated States of Micronesia and the Marshall Islands their domestic approval processes with respect to the Compact as contemplated in Compact Section 411: Now be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Compact of Free Association, the text of which follows, is hereby approved and the President is authorized to agree to an effective date for and thereafter to implement the Compact of Free Association, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

COMPACT OF FREE ASSOCIATION

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENTS OF THE MARSHALL ISLANDS
AND THE FEDERATED STATES OF MICRONESIA

Affirming that their Governments and their relationships as Governments are founded upon respect for human rights and fundamental freedoms for all, and that the peoples of the Trust Territory of the Pacific Islands have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the peoples of the Trust Territory of the Pacific Islands in creating close and mutually beneficial relationships through two free and voluntary associations of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and self-sufficiency of the peoples of the Trust Territory of the Pacific Islands; and

Recognizing that their previous relationship has been based upon the International Trusteeship System of the United Nations Charter, and in particular Article 76 of the Charter; and that pursuant to Article 76 of the Charter, the peoples of the Trust Territory have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they have, through their freely-expressed wishes, adopted Constitutions appropriate to their particular circumstances; and

Recognizing their common desire to terminate the Trusteeship and establish two new government-to-government relationships each of which is in accordance with a new political status based on the freely-expressed wishes of peoples of the Trust Territory of the Pacific Islands and appropriate to their particular circumstances; and

Recognizing that the peoples of the Trust Territory of the Pacific Islands have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitutions and forms of government and that the approval of the entry of their respective Governments into this Compact of Free Association by the peoples of the Trust Territory of the Pacific Islands constitutes an exercise of their sovereign right to self-determination;

NOW, THEREFORE, AGREE to enter into relationships of free association which provide a full measure of self-government for the peoples of the Marshall Islands and the Federated States of Micronesia; and

FURTHER AGREE that the relationships of free association derive from and are as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Governments of the freely associated states of the Marshall Islands and the Federated States of Micronesia in regard to these relationships of free association derive from and are as set forth in this Compact.

TITLE ONE

GOVERNMENTAL RELATIONS

Article I

Self-Government

Section 111

The peoples of the Marshall Islands and the Federated States of Micronesia, acting through the Governments established under their respective Constitutions, are self-governing.

Article II

Foreign Affairs

Section 121

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to conduct foreign affairs and shall do so in their own name and right, except as otherwise provided in this Compact.

(b) The foreign affairs capacity of the Governments of the Marshall Islands and the Federated States of Micronesia includes:

(1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent recognized under international law;

(2) the conduct of their commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other governments and

international and intergovernmental organizations, including any matters specially benefiting their individual citizens.

(c) The Government of the United States recognizes that the Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to enter into, in their own name and right, treaties and other international agreements with governments and regional and international organizations.

(d) In the conduct of their foreign affairs, the Governments of the Marshall Islands and the Federated States of Micronesia confirm that they shall act in accordance with principles of international law and shall settle their international disputes by peaceful means.

Section 122

The Government of the United States shall support applications by the Governments of the Marshall Islands and the Federated States of Micronesia for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States agrees to accept for training and instruction at the Foreign Service Institute, established under 22 U.S.C. 4021, citizens of the Marshall Islands and the Federated States of Micronesia. The qualifications of candidates for such training and instruction and all other terms and conditions of participation by citizens of the Marshall Islands and the Federated States of Micronesia in Foreign Service Institute programs shall be as mutually agreed between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 123

(a) In recognition of the authority and responsibility of the Government of the United States under Title Three, the Governments of the Marshall Islands and the Federated States of Micronesia shall consult, in the conduct of their foreign affairs, with the Government of the United States.

(b) In recognition of the respective foreign affairs capacities of the Governments of the Marshall Islands and the Federated States of Micronesia, the Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of the Marshall Islands or the Federated States of Micronesia on matters which the Government of the United States regards as relating to or affecting any such Government.

Section 124

The Government of the United States may assist or act on behalf of the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of the Marshall Islands or the Federated States of Micronesia undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Section 125

The Government of the United States shall not be responsible for nor obligated by any actions taken by the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs, except as may from time to time be expressly agreed.

Section 126

At the request of the Government of the Marshall Islands or the Federated States of Micronesia and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of the Marshall Islands and the Federated States of Micronesia for travel outside the Marshall Islands and the Federated States of Micronesia, the United States and its territories and possessions.

Section 127

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as Administering Authority which have resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

Article III

Communications

Section 131

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have full authority and responsibility to regulate their respective domestic and foreign communications, and the Government of the United States shall provide communication assistance in accordance with the terms of a separate agreement which shall come into effect simultaneously with this Compact, and such agreement shall remain in effect until such time as any election is made pursuant to Section 131(b) and which shall provide for the following:

(1) the Government of the United States remains the sole administration entitled to make notification to the International Frequency Registration Board of the International Telecommunications Union of frequency assignments to radio communications stations respectively in the Marshall Islands and the Federated States of Micronesia; and to submit to the International Frequency Registration Board seasonal schedules for the broadcasting stations respectively in the Marshall Islands and the Federated States of Micronesia in the bands allocated exclusively to the broadcasting service between 5,950 and 26,100 kHz and in any other additional frequency bands that may be allocated to use by high frequency broadcasting stations; and

(2) the United States Federal Communications Commission has jurisdiction, pursuant to the Communications Act of 1934, 47 U.S.C. 151 et. seq., and the Communications Satellite Act of 1962, 47 U.S.C. 721 et. seq., over all domestic and foreign communications services furnished by means of satellite earth terminal stations where such stations are owned or operated by United States common carriers and are located in the Marshall Islands or the Federated States of Micronesia.

(b) The Government of the Marshall Islands or the Federated States of Micronesia may elect at any time to undertake the functions enumerated in Section 131(a) and previously performed by the Government of the United States. Upon such election, the Government of the United States shall so notify the International Frequency Registration Board and shall take such other actions as may be necessary to transfer to the electing Government the notification authority referred to in Section 131(a) and all rights deriving from the previous exercise of any such notification authority by the Government of the United States.

Section 132

The Governments of the Marshall Islands and the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in the Marshall Islands and the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the United States under this Compact in accordance with the terms of separate agreements which shall come into effect simultaneously with this Compact.

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a non-immigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of the Marshall Islands or the Federated States of Micronesia.

(2) a person who acquires the citizenship of the Marshall Islands or the Federated States of Micronesia at birth, on or after the effective date of the respective Constitution;

(3) a naturalized citizen of the Marshall Islands or the Federated States of Micronesia who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence; or

(4) a person entitled to citizenship in the Marshall Islands by lineal descent whose name is included in a list to be furnished by the Government of the Marshall Islands to the United States Immigration and Naturalization Service and any descendants of such persons, provided that such person holds a certificate of lineal descent issued by the Government of the Marshall Islands.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to non-discriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of the Marshall Islands or the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of the Marshall Islands or the Federated States of Micronesia from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in the Marshall Islands or the Federated States of Micronesia, subject to the rights of those Governments to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in the Marshall Islands or the Federated States of Micronesia only in accordance with the laws of the jurisdiction in which habitual residence or domicile is sought.

(b) With respect to the subject matter of this Section, the Government of the Marshall Islands or the Federated States of Micronesia shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Sections 141 and 142 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of the Marshall Islands or the Federated States of Micronesia, commences employment with such Government shall not be deprived of his United States nationality pursuant to Section 349(a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of the Marshall Islands or the Federated States of Micronesia, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of the Marshall Islands or the Federated States of Micronesia on the effective date of this Compact with respect to the positions held by them at that time.

Article V

Representation

Section 151

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may establish and maintain representative offices in the capital of the other for the purpose of maintaining close and regular consultations on matters arising in the course of the relationship of free association and conducting other government business. The Governments may establish and maintain additional offices on terms and in locations as may be mutually agreed.

Section 152

(a) The premises of such representative offices, and their archives wherever located, shall be inviolable. The property and assets of such representative offices shall be immune from search, requisition, attachment and any form of seizure unless such immunity is expressly waived. Official communications in transit shall be inviolable and accorded the freedom and protections accorded by recognized principles of international law to official communications of a diplomatic mission.

(b) Persons designated by the sending Government may serve in the capacity of its resident representatives with the consent of the receiving Government. Such designated persons shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions as such representatives, except insofar as such immunity may be expressly waived by the sending Government. While serving in a resident representative capacity, such designated persons shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents.

(c) The sending Governments and their respective assets, income and other property shall be exempt from all direct taxes, except those direct taxes representing payment for specific goods and services, and shall be exempt from all customs duties and restrictions on the import or export of articles required for the official functions and personal use of their representatives and representative offices.

(d) Persons designated by the sending Government to serve in the capacity of its resident representatives shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations.

(e) The privileges, exemptions and immunities accorded under this Section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government to which they are assigned.

Section 153

(a) Any citizen or national of the United States who, after consultation between the designating Government and the Government of the United States, is designated by the Government of the Marshall Islands or the Federated States of Micronesia as its agent, shall enjoy exemption from the requirements of the laws of the United States relating to the registration of foreign agents. The Government of the United States shall promptly comply with a request for consultation made by the prospective designating Government. During the course of the consultation, the Government of the United States may, in its discretion, and subject to the provisions of the Privacy Act, 5 U.S.C. 552a, transmit such information concerning the prospective designee as may be available to it to the prospective designating Government.

(b) Any citizen or national of the United States may be employed by the Government of the Marshall Islands or the Federated States of Micronesia to represent to foreign governments, officers or agents thereof the positions of the Government of the Marshall Islands or the Federated States of Micronesia, without regard to the provisions of 18 U.S.C. 953.

Article VI

Environmental Protection

Section 161

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Marshall Islands and the Federated States of Micronesia. In order to carry out this policy, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree to the following mutual and reciprocal undertakings.

(a) The Government of the United States:

(1) shall continue to apply the environmental controls in effect on the day preceding the effective date of this Compact to those of its continuing activities subject to Section 161(a)(2), unless and until those controls are modified under Sections 161(a)(3) and 161(a)(4);

(2) shall apply the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 *et seq.*, to its activities under the Compact and its related agreements as if the Marshall Islands and the Federated States of Micronesia were the United States;

(3) shall comply also, in the conduct of any activity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), with standards substantively similar to those required

by the following laws of the United States, taking into account the particular environments of the Marshall Islands and the Federated States of Micronesia: the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 _et_ _seq_.; the Clean Air Act, 77 Stat. 392, 42 U.S.C. Supp. 7401 _et seq_.; the Clean Water Act (Federal Water Pollution Control Act), 86 Stat. 896, 33 U.S.C. 1251 _et seq_.; the Ocean Dumping Act (Title I of the Marine Protection, Research and Sanctuaries Act of 1972), 86 Stat. 1053, 33 U.S.C. 1411 _et_ _seq_.; the Toxic Substances Control Act, 90 Stat. 2003, 15 U.S.C. 2601 _et_ _seq_.; the Resources Conservation and Recovery Act of 1976, 90 Stat. 2796, 42 U.S.C. 6901 _et_ _seq_.; and such other environmental protection laws of the United States as may be mutually agreed from time to time with the Government of the Marshall Islands or the Federated States of Micronesia; and

(4) shall develop, prior to conducting any activity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), appropriate mechanisms, including regulations or other judicially reviewable standards and procedures, to regulate its activities governed by Section 161(a)(3) in the Marshall Islands and the

Federated States of Micronesia in a manner appropriate to the special governmental relationship set forth in this Compact. The agencies of the Government of the United States designated by law to administer the laws set forth in Section 161(a)(3) shall participate as appropriate in the development of any regulation, standard or procedure under this Section, and the Government of the United States shall provide the affected Government of the Marshall Islands or the Federated States of Micronesia with the opportunity to comment during such development.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia shall develop standards and procedures to protect their environments. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Governments of the Marshall Islands and the Federated States of Micronesia, taking into account their particular environments, shall develop standards for environmental protection substantively similar to those required of the Government of the United States by Section 161(a)(3) prior to their conducting activities in the Marshall Islands and the Federated States of Micronesia, respectively, substantively equivalent to activities conducted there by the Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 161(a), including any standard or procedure applicable thereunder, and Section 161(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia.

(d) In the event that an Environmental Impact Statement is no longer required under the laws of the United States for major federal actions significantly affecting the quality of the human environment, the regulatory regime established under Sections 161(a)(3) and 161(a)(4) shall continue to apply to such activities of the Government of the United States until amended by mutual agreement.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact and its related agreements from any environmental standard or procedure which may be applicable under Sections 161(a)(3) and 161(a)(4) if the President determines it to be in the paramount interest of the Government of the United States to do so, consistent with Title Three of this Compact and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the affected Government of the Marshall Islands or the Federated States of Micronesia shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the affected Government.

(f) The laws of the United States referred to in Section 161(a)(3) shall apply to the activities of the Government of the United States under this Compact and its related agreements only to the extent provided for in this Section.

Section 162

The Government of the Marshall Islands or the Federated States of Micronesia may bring an action for judicial review of any administrative agency action or any activity of the Government of the United States pursuant to Sections 161(a), 161(d) or 161(e) or for enforcement of the obligations of the Government of the United States arising thereunder. The United States District Court for the District of Hawaii and the United States District Court for the District of Columbia shall have jurisdiction over such action or activity, and over actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees, governed by Section 161, provided that:

(a) Such actions may only be civil actions for any appropriate civil relief other than punitive damages against the Government of the United States or, where required by law, its officers in their official capacity; no criminal actions may arise under this Section;

(b) Actions brought pursuant to this Section may be initiated only by the Government concerned;

(c) Administrative agency actions arising under Section 161 shall be reviewed pursuant to the standard of judicial review set forth in 5 U.S.C. 706;

(d) The District Court shall have jurisdiction to issue all necessary processes, and the Government of the United States agrees to submit itself to the jurisdiction of the court; decisions of the District Court shall be reviewable in the United States Court of Appeals for the Ninth Circuit or the United States Court of Appeals for the District of Columbia, respectively, or in the United States Supreme Court as provided by the laws of the United States;

(e) The judicial remedy provided for in this Section shall be the exclusive remedy for the judicial review or enforcement of the obligations of the Government of the United States under this Article and actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees governed by Section 161; and

(f) In actions pursuant to this Section, the Governments of the Marshall Islands and the Federated States of Micronesia shall be treated as if they were United States citizens.

Section 163

(a) For the purpose of gathering data necessary to study the environmental effects of activities of the Government of the United States subject to the requirements of this Article, the Governments of the Marshall Islands and the Federated States of Micronesia shall be granted access to facilities operated by the Government of the United States in the Marshall Islands and the Federated States of Micronesia, to the extent necessary for this purpose, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the United States under Title Three.

(b) The Government of the United States, in turn, shall be granted access to the Marshall Islands or the Federated States of Micronesia for the purpose of gathering data necessary to discharge its obligations under this Article, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the Marshall Islands or the Federated States of Micronesia under Title One, and to the extent necessary for this purpose shall be granted access to documents and other information to the same extent similar access is provided those Governments under the Freedom of Information Act, 5 U.S.C. 552.

(c) The Governments of the Marshall Islands and the Federated States of Micronesia shall not impede efforts by the Government of the United States to comply with applicable standards and procedures.

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceases with respect to the Marshall Islands and the Federated States of Micronesia as of the effective date of this Compact.

Section 172

(a) Every citizen of the Marshall Islands or the Federated States of Micronesia who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any non-resident alien.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia and every citizen of the Marshall

Islands or the Federated States of Micronesia shall be considered a "person" within the meaning of the Freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701-706, except that only the Government of the Marshall Islands or the Federated States of Micronesia may seek judicial review under the Administrative Procedure Act or judicial enforcement under the Freedom of Information Act when such judicial review or enforcement relates to the activities of the Government of the United States governed by Sections 161 and 162.

Section 173

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia agree to adopt and enforce such measures, consistent with this Compact and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in the Marshall Islands and the Federated States of Micronesia pursuant to this Compact and its related agreements and by those Governments in the United States pursuant to this Compact and its related agreements.

Section 174

Except as otherwise provided in this Compact and its related agreements:

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia.

(b) The Government of the United States accepts responsibility for and shall pay:

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the Trust Territory of the Pacific Islands or the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the effective date of this Compact; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands, pending as of the effective date of this Compact, against the Government of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

(c) Any claim not referred to in Section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact shall be adjudicated in the same manner as a claim adjudicated according to Section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in Section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, which shall have jurisdiction therefor, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States. The United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

(d) The Governments of the Marshall Islands and the Federated States of Micronesia shall not be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia in any case in which the action is based on a commercial activity of the defendant Government where the action is brought, or in a case in which damages are sought for personal injury or death or damage to or loss of property occurring where the action is brought.

Section 175

A separate agreement, which shall come into effect simultaneously with this Compact, shall be concluded between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners. The separate agreement shall have the force of law. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186 and 3188-3195, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100-4115, shall be applicable to the transfer of prisoners under the separate agreement.

Section 176

The Governments of the Marshall Islands and the Federated States of Micronesia confirm that final judgments in civil cases rendered by any court of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the constitutional power of the courts of the Marshall Islands and the Federated States of Micronesia to grant relief from judgments in appropriate cases.

Section 177

(a) The Government of the United States accepts the responsibility for compensation owing to citizens of the Marshall Islands, or the Federated States of Micronesia (or Palau) for loss or damage to property and person of the citizens of the Marshall

Islands, or the Federated States of Micronesia or resulting from the nuclear testing program which the Government of the United States conducted in the Northern Marshall Islands between June 30, 1946, and August 18, 1958.

(b) The Government of the United States and the Government of the Marshall Islands shall set forth in a separate agreement provisions for the just and adequate settlement of all such claims which have arisen in regard to the Marshall Islands and its citizens and which have not as yet been compensated or which in the future may arise, for the continued administration by the Government of the United States of direct radiation related medical surveillance and treatment programs and radiological monitoring activities and for such additional programs and activities as may be mutually agreed, and for the assumption by the Government of the Marshall Islands of responsibility for enforcement of limitations on the utilization of affected areas developed in cooperation with the Government of the United States and for the assistance by the Government of the United States in the exercise of such responsibility as may be mutually agreed. This separate agreement shall come into effect simultaneously with this Compact and shall remain in effect in accordance with its own terms.

(c) The Government of the United States shall provide to the Government of the Marshall Islands, on a grant basis, the amount of $150 million to be paid and distributed in accordance with the separate agreement referred to in this Section, and shall provide the services and programs set forth in this separate agreement, the language of which is incorporated into this Compact.

Section 178

(a) The federal agencies of the Government of the United States which provide the services and related programs in the Marshall Islands or the Federated States of Micronesia pursuant to Articles II and III of Title Two are authorized to settle and pay tort claims arising in the Marshall Islands or the Federated States of Micronesia from the activities of such agencies or from the acts or omissions of the employees of such agencies. Except as provided in Section 178(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C. 1304 shall apply exclusively to such administrative settlements and payments.

(b) Claims under Section 178(a) which cannot be settled under Section 178(a) shall be disposed of exclusively in accordance with Article II of Title Four. Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall, in the separate agreements referred to in Section 232, provide for:

(1) the administrative settlement of claims referred to in Section 178(a), including designation of local agents in the Marshall Islands and each State of the Federated States of Micronesia; such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such separate agreements; and

(2) arbitration, referred to in Section 178(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to Section 178(a).

(d) The provisions of Section 174(d) shall not apply to claims covered by this Section.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211

(a) In order to assist the Governments of the Marshall Islands and the Federated States of Micronesia in their efforts to advance the economic self-sufficiency of their peoples and in recognition of the special relationship that exists between them and the United States, the Government of the United States shall provide on a grant basis the following amounts:

(1) to the Government of the Marshall Islands, $26.1 million annually for five years commencing on the effective date of this Compact, $22.1 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and $19.1 million annually for five years commencing on the tenth anniversary of this Compact. Over this fifteen-year period, the Government of the Marshall Islands shall dedicate an average of no less than 40 percent of these amounts to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b).

(2) to the Government of the Federated States of Micronesia, $60 million annually for five years commencing on the effective date of this Compact, $51 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and $40 million annually for five years commencing on the tenth anniversary of the

effective date of this Compact. Over this fifteen year period, the Government of the Federated States of Micronesia shall dedicate an average of no less than 40 percent of these amounts annually to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b). To take into account the special nature of the assistance, to be provided under this paragraph and Sections 212(b), 213(c), 214(c), 215(a)(3), 215(b)(3), 216(a), 216(b), 221(a), and 221(b), the division of these amounts among the national and state governments of the Federated States of Micronesia shall be certified to the Government of the United States by the Government of the Federated States of Micronesia.

(b) The annual expenditure of the grant amounts specified for the capital account in Section 211(a) by the Governments of the Marshall Islands and the Federated States of Micronesia shall be in accordance with official overall economic development plans provided by those Governments and concurred in by the Government of the United States prior to the effective date of this Compact. These plans may be amended from time to time by the Government of the Marshall Islands or the Federated States of Micronesia.

(c) The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia recognize that the achievement of the goals of the plans referred to in Section 211(b) depends upon the availability of adequate internal revenue as well as economic assistance from sources outside of the Marshall Islands and the Federated States of Micronesia, including the Government of the United States, and may, in addition, be affected by the impact of exceptional, economically adverse circumstances. Each of the Governments of the Marshall Islands and the Federated States of Micronesia shall therefore report annually to the President of the United States and to the Congress of the United States on the implementation of the plans and on their use of the funds specified in this Article. These reports shall outline the achievements of the plans to date and the need, if any, for an additional authorization and appropriation of economic assistance for that year to account for any exceptional, economically adverse circumstances. It is understood that the Government of the United States cannot be committed by this Section to seek or support such additional economic assistance.

Section 212

In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall provide to the Government of the Federated States of Micronesia $1 million annually for fourteen years commencing on the first anniversary of the effective date of this Compact. This amount may be used by the Government of the Federated States of Micronesia to defray current account expenditures attendant to the operation of the United States military Civic Action Teams made available in accordance with the separate agreement referred to in Section 227.

Section 213

(a) The Government of the United States shall provide on a grant basis $1.9 million annually to the Government of the Marshall Islands in conjunction with Section 321(a). The Government of the Marshall Islands, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in the Kwajalein Atoll area of the Marshall Islands.

(b) The Government of the United States shall provide on a grant basis to the Government of the Federated States of Micronesia the sum of $160,000 in conjunction with Section 321(a). This sum shall be made available concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact. The Government of the Federated States of Micronesia, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Yap State, Federated States of Micronesia.

Section 214

As a contribution to efforts aimed at achieving increased self-sufficiency in energy production, the Government of the United States shall provide on a current account grant basis for fourteen years commencing on the first anniversary of the effective date of this Compact the following amounts:

(a) To the Government of the Marshall Islands, $2 million annually; and

(b) To the Government of the Federated States of Micronesia, $3 million annually.

Section 215

(a) As a contribution to the current account operations and maintenance of communications systems, the Government of the United States shall provide on a grant basis for fifteen years commencing on the effective date of this Compact the following amounts:

(1) to the Government of the Marshall Islands, $300,000 annually; and

(2) to the Government of the Federated States of Micronesia, $600,000 annually.

(b) For the purpose of acquiring such communications hardware as may be located within the Marshall Islands and the Federated States of Micronesia or for such other current or capital account activity as may be selected, the Government of the United States shall provide, concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact, the sum of $9 million to be allocated as follows:

(1) to the Government of the Marshall Islands, $3 million; and

(2) to the Government of the Federated States of Micronesia, $6 million.

Section 216

(a) The Government of the United States shall provide on a current account basis an annual grant of $5.369 million for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

(1) $890,000 annually for the surveillance and enforcement by the Governments of the Marshall Islands and the Federated States of Micronesia of their respective maritime zones;

(2) $1.791 million annually for health and medical programs, including referrals to hospital and treatment centers; and

(3) $2.687 million annually for a scholarship fund or funds to support the post-secondary education of citizens of the Marshall Islands and the Federated States of Micronesia attending United States accredited, post-secondary institutions in the United States, its territories and possessions, the Marshall Islands or the Federated States of Micronesia. The curricular criteria for the award of scholarships shall be designed to advance the purposes of the plans referred to in Section 211(b).

(b) The Government of the United States shall provide the sum of $1.333 million as a contribution to the commencement of activities pursuant to Section 216(a)(1).

(c) The annual grants referred to in Section 216(a) and the sum referred to in Section 216(b) shall be made available by the Government of the United States promptly after it receives instruction for their distribution agreed upon by the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 217

Except as otherwise provided, the amounts stated in Sections 211, 212, 214, 215 and 231 shall be adjusted for each Fiscal Year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year 1981 as the base.

Section 218

If in any year the funds made available by the Government of the United States for that year pursuant to this Article or Section 231 are not completely obligated by the recipient Government, the unobligated balances shall remain available in addition to the funds to be provided in subsequent years.

Section 219

All funds previously appropriated to the Trust Territory of the Pacific Islands which are unobligated by the Government of the Trust Territory of the Pacific Islands as of the effective date of this Compact shall accrue to the Governments of the Marshall Islands and the Federated States of Micronesia for the purposes for which such funds were originally appropriated as determined by the Government of the United States.

Article II

Program Assistance

Section 221

(a) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia, in accordance with and to the extent provided in the separate agreements referred to in Section 232, without compensation and at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Compact, the services and related programs:

(1) of the United States Weather Service;

(2) of the United States Federal Emergency Management Agency;

(3) provided pursuant to the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*;

(4) of the United States Federal Aviation Administration; and

(5) of the United States Civil Aeronautics Board or its successor agencies which has the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact.

(b) The Government of the United States, recognizing the special needs of the Marshall Islands and the Federated States of Micronesia particularly in the fields of education and health care, shall make available, as provided by the laws of the United States, the annual amount of $10 million which shall be allocated in accordance with the provisions of the separate agreement referred to in Section 232.

(c) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia such alternate energy development projects, studies and conservation measures as are applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, for the purposes and duration provided in the laws of the United States.

(d) The Government of the United States shall have and exercise such authority as is necessary for the purposes of this Article and as is set forth in the separate agreements referred to in Section 232, which shall also set forth the extent to which services and programs shall be provided to the Marshall Islands and the Federated States of Micronesia.

Section 222

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall consult regularly or upon request regarding:

(a) The economic development of the Marshall Islands or the Federated States of Micronesia; or

(b) The services and programs referred to in this Article. These services and programs shall continue to be provided by the Government of the United States unless their modification is provided by mutual agreement or their termination in whole or in part is requested by any recipient Government.

Section 223

The citizens of the Marshall Islands and the Federated States of Micronesia who are receiving post-secondary educational assistance from the Government of the United States on the day preceding the effective date of this Compact shall continue to be eligible, if otherwise qualified, to receive such assistance to complete their academic programs for a maximum of four years after the effective date of this Compact.

Section 224

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may agree from time to time to the extension of additional United States grant assistance, services and programs as provided by the laws of the United States, to the Marshall Islands or the Federated States of Micronesia, respectively.

Section 225

The Governments of the Marshall Islands and the Federated States of Micronesia shall make available to the Government of the United States at no cost such land as may be necessary for the operations of the services and programs provided pursuant to this Article, and such facilities as are provided by the Government of the Marshall Islands or the Federated States of Micronesia at no cost to the Government of the United States as of the effective date of this Compact or as may be mutually agreed thereafter.

Section 226

The Governments of the Marshall Islands and the Federated States of Micronesia may request, from time to time, technical assistance from the federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its laws and which shall grant such technical assistance in a manner which gives priority consideration to the Marshall Islands and the Federated States of Micronesia over other recipients not a part of the United States, its territories or possessions. The Government of the United States shall coordinate the provision of such technical assistance in consultation with the respective recipient Government.

Section 227

In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall make available United States military Civic Action Teams for use in the Federated States of Micronesia under terms and conditions specified in a separate agreement which shall come into effect simultaneously with this Compact.

Article III

Administrative Provisions

Section 231

Upon the thirteenth anniversary of the effective date of this Compact, the Government of the United States and the Governments of the Marshall Islands and the Federated States of

Micronesia shall commence negotiations regarding those provisions of this Compact which expire on the fifteenth anniversary of its effective date. If these negotiations are not concluded by the fifteenth anniversary of the effective date of this Compact, the period of negotiations shall extend for not more than two additional years, during which time the provisions of this Compact including Title Three shall remain in full force and effect. During this additional period of negotiations, the Government of the United States shall continue its assistance to the Governments with which it is negotiating pursuant to this Section at a level which is the average of the annual amounts granted pursuant to Sections 211, 212, 213, 214, 215 and 216 during the first fifteen years of this Compact. The average annual amount paid pursuant to Sections 211, 212, 214 and 215 shall be adjusted pursuant to Section 217.

Section 232

The specific nature, extent and contractual arrangements of the services and programs provided for in Section 221 as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in the Marshall Islands or the Federated States of Micronesia, and other arrangements in connection with a service or program furnished by the Government of the United States, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Section 233

The Government of the United States, in consultation with the Governments of the Marshall Islands and the Federated States of Micronesia, shall determine and implement procedures for the periodic audit of all grants and other assistance made under Article I of this Title and of all funds expended for the services and programs provided under Article II of this Title. Such audits shall be conducted on an annual basis during the first five years following the effective date of this Compact and shall be at no cost to the Government of the Marshall Islands or the Federated States of Micronesia.

Section 234

Title to the property of the Government of the United States situated in the Trust Territory of the Pacific Islands or acquired for or used by the Government of the Trust Territory of the Pacific Islands on or before the day preceding the effective date of this Compact shall, without reimbursement or transfer of funds, vest in the Governments of the Marshall Islands and the Federated States of Micronesia as set forth in a separate agreement which shall come into effect simultaneously with this Compact. The provisions of this Section shall not apply to the property of the Government of the United States for which the Government of the United States determines a continuing requirement.

Section 235

(a) Funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands, in his official capacity, as of the effective date of this Compact shall remain available as trust funds to their designated beneficiaries. The Government of the United States, in consultation with the Government of the Marshall Islands or the Federated States of Micronesia, shall appoint a new trustee who shall exercise the functions formerly exercised by the High Commissioner of the Trust Territory of the Pacific Islands.

(b) To provide for the continuity of administration, and to assure the Governments of the Marshall Islands and the Federated States of Micronesia that the purposes of the laws of the United States are carried out and that the funds of any other trust fund in which the High Commissioner of the Trust Territory of the Pacific Islands has authority of a statutory or customary nature shall remain available as trust funds to their designated beneficiaries, the Government of the United States agrees to assume the authority formerly vested in the High Commissioner of the Trust Territory of the Pacific Islands.

Section 236

Except as otherwise provided, approval of this Compact by the Government of the United States shall constitute a pledge of the full faith and credit of the United States for the full payment of the sums and amounts specified in Articles I and III of this Title. The obligation of the United States under Articles I and III of this Title shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under this Section, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States.

Article IV

Trade

Section 241

The Marshall Islands and the Federated States of Micronesia are not included in the customs territory of the United States.

Section 242

For the purpose of assessing duties on their products imported into the customs territory of the United States, the

Marshall Islands and the Federated States of Micronesia shall be treated as if they were insular possessions of the United States within the meaning of General Headnote 3(a) of the Tariff Schedules of the United States. The exceptions, valuation procedures and all other provisions of General Headnote 3(a) shall apply to any product deriving from the Marshall Islands or the Federated States of Micronesia.

Section 243

All products of the Marshall Islands or the Federated States of Micronesia imported into the customs territory of the United States which are not accorded the treatment set forth in Section 242 and all products of the United States imported into the Marshall Islands or the Federated States of Micronesia shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage or use.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of the Marshall Islands and the Federated States of Micronesia. Should the Government of the Marshall Islands or the Federated States of Micronesia act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of the Marshall Islands or the Federated States of Micronesia may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as such Government deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact be made according to the United States Internal Revenue Code.

Section 253

A citizen of the Marshall Islands or the Federated States of Micronesia, domiciled therein, shall be exempt from:

(a) Income taxes imposed by the Government of the United States upon fixed or determinable annual income; and

(b) Estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States.

Section 254

(a) In determining any income tax imposed by the Government of the Marshall Islands or the Federated States of Micronesia, those Governments shall have authority to impose tax upon income derived by a resident of the Marshall Islands or the Federated States of Micronesia from sources without the Marshall Islands and the Federated States of Micronesia, in the same manner and to the same extent as those Governments impose tax upon income derived from within their respective jurisdictions. If the Government of the Marshall Islands or the Federated States of Micronesia exercises such authority as provided in this subsection, any individual resident of the Marshall Islands or the Federated States of Micronesia who is subject to tax by the Government of the United States on income which is also taxed by the Government of the Marshall Islands or the Federated States of Micronesia shall be relieved of liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United States on such income. For purposes of this Section, the term "resident of the Marshall Islands or the Federated States of Micronesia" shall be deemed to include any person who was physically present in the Marshall Islands or the Federated States of Micronesia for a period of 183 or more days during any taxable year; provided, that as between the Governments of the Marshall Islands and the Federated States of Micronesia, the authority to tax an individual resident of the Marshall Islands or the Federated States of Micronesia in respect of income from sources without the Marshall Islands and the Federated States of Micronesia as provided in this subsection may be exercised only by the Government in whose jurisdiction such individual was physically present for the greatest number of days during the taxable year.

(b) If the Government of the Marshall Islands or the Federated States of Micronesia subjects income to taxation substantially similar to that imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in Section 254(a).

Section 255

Where not otherwise manifestly inconsistent with the intent of this Compact, provisions in the United States Internal Revenue Code that are applicable to possessions of the United States as of January 1, 1980 shall be treated as applying to the Marshall Islands and the Federated States of Micronesia. If such provisions of the Internal Revenue Code are amended, modified or repealed after that date, such provisions shall continue in effect as to the Marshall Islands and the Federated States of Micronesia for a period of two years during which time the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia shall negotiate an agreement which shall provide benefits substantively equivalent to those which obtained under such provisions.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

Article I

Authority and Responsibility

Section 311

(a) The Government of the United States has full authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b) This authority and responsibility includes:

(1) the obligation to defend the Marshall Islands and the Federated States of Micronesia and their peoples from attack or threats thereof as the United States and its citizens are defended;

(2) the option to foreclose access to or use of the Marshall Islands and the Federated States of Micronesia by military personnel or for the military purposes of any third country; and

(3) the option to establish and use military areas and facilities in the Marshall Islands and the Federated States of Micronesia, subject to the terms of the separate agreements referred to in Sections 321 and 323.

(c) The Government of the United States confirms that it shall act in accordance with the principles of international law and the Charter of the United Nations in the exercise of this authority and responsibility.

Section 312

Subject to the terms of any agreements negotiated in accordance with Sections 321 and 323, the Government of the United States may conduct within the lands, waters and airspace of the Marshall Islands and the Federated States of Micronesia the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall refrain from actions which the Government of the United States determines, after appropriate consultation with those Governments, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b) The consultations referred to in this Section shall be conducted expeditiously at senior levels of the Governments concerned, and the subsequent determination by the Government of the United States referred to in this Section shall be made only at senior interagency levels of the Government of the United States.

(c) The Government of the Marshall Islands or the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of State personally and the United States Secretary of Defense personally regarding any determination made in accordance with this Section.

Section 314

(a) Unless otherwise agreed, the Government of the United States shall not, in the Marshall Islands or the Federated States of Micronesia:

(1) test by detonation or dispose of any nuclear weapon, nor test, dispose of, or discharge any toxic chemical or biological weapon; or

(2) test, dispose of, or discharge any other radioactive, toxic chemical or biological materials in an amount or manner which would be hazardous to public health or safety.

(b) Unless otherwise agreed, other than for transit or over flight purposes or during time of a national emergency declared by the President of the United States, a state of war declared by the Congress of the United States or as necessary to defend against an actual or impending armed attack on the United States, the Marshall Islands or the Federated States of Micronesia, the Government of the United States shall not store in the Marshall Islands or the Federated States of Micronesia any toxic chemical weapon, nor any radioactive materials nor any toxic chemical materials intended for weapons use.

(c) Radioactive, toxic chemical, or biological materials not intended for weapons use shall not be affected by Section 314(b).

(d) No material or substance referred to in this Section shall be stored in the Marshall Islands or the Federated States of Micronesia except in an amount and manner which would not be hazardous to public health or safety. In determining what shall be an amount or manner which would be hazardous to public health or safety under this Section, the Government of the United States shall comply with any applicable mutual agreement, international guidelines accepted by the Government of the United States, and the laws of the United States and their implementing regulations.

(e) Any exercise of the exemption authority set forth in Section 161(e) shall have no effect on the obligations of the Government of the United States under this Section or on the application of this subsection.

(f) The provisions of this Section shall apply in the areas in which the Government of the Marshall Islands or the Federated States of Micronesia exercises jurisdiction over the living resources of the seabed, subsoil or water column adjacent to its coasts.

Section 315

The Government of the United States may invite members of the armed forces of other countries to use military areas and facilities in the Marshall Islands or the Federated States of

Micronesia, in conjunction with and under the control of United States Armed Forces. Use by units of the armed forces of other countries of such military areas and facilities, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval by the Government of the Marshall Islands or the Federated States of Micronesia.

Section 316

The authority and responsibility of the Government of the United States under this Title may not be transferred or otherwise assigned.

Article II

Defense Facilities and Operating Rights

Section 321

(a) Specific arrangements for the establishment and use by the Government of the United States of military areas and facilities in the Marshall Islands or the Federated States of Micronesia are set forth in separate agreements which shall come into effect simultaneously with this Compact.

(b) If, in the exercise of its authority and responsibility under this Title, the Government of the United States requires the use of areas within the Marshall Islands or the Federated States of Micronesia in addition to those for which specific arrangements are concluded pursuant to Section 321(a), it may request the Government concerned to satisfy those requirements through leases or other arrangements. The Government of the Marshall Islands or the Federated States of Micronesia shall sympathetically consider any such request and shall establish suitable procedures to discuss it with and provide a prompt response to the Government of the United States.

(c) The Government of the United States recognizes and respects the scarcity and special importance of land in the Marshall Islands and the Federated States of Micronesia. In making any requests pursuant to Section 321(b), the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy its requirement through public real property, where available, rather than through private real property.

Section 322

The Government of the United States shall provide and maintain fixed and floating aids to navigation in the Marshall Islands and the Federated States of Micronesia at least to the extent necessary for the exercise of its authority and responsibility under this Title.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in the Marshall Islands or the Federated States of Micronesia, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to the Marshall Islands and the Federated States of Micronesia, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as Administering Authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in the Marshall Islands and the Federated States of Micronesia. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of the Marshall Islands or the Federated States of Micronesia.

Article IV

Service in Armed Forces of the United States

Section 341

Any person entitled to the privileges set forth in Section 141 shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States so long as such person does not establish habitual residence in the United States, its territories or possessions.

Section 342

The Government of the United States shall have enrolled, at any one time, at least two qualified students, one each from the Marshall Islands and the Federated States of Micronesia, as may be nominated by their respective Governments, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195; and

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295b(b)(6), provided that the provisions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the enrollment of students pursuant to Section 342(b) of this Compact.

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall establish two Joint Committees empowered to consider disputes under the implementation of this Title and its related agreements.

(b) The membership of each Joint Committee shall comprise selected senior officials of each of the two participating Governments. The senior United States military commander in the Pacific area shall be the senior United States member of each Joint Committee. For the meetings of each Joint Committee, each of the two participating Governments may designate additional or alternate representatives as appropriate for the subject matter under consideration.

(c) Unless otherwise mutually agreed, each Joint Committee shall meet semi-annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. A Joint Committee also shall meet promptly upon request of either of its members. Upon notification by the Government of the United States, the Joint Committees so notified shall meet promptly in a combined session to consider matters within the jurisdiction of more than one Joint Committee. Each Joint Committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree.

(d) Unresolved issues in each Joint Committee shall be referred to the Governments concerned for resolution, and the Government of the Marshall Islands or the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which threatens its continued association with the Government of the United States.

Section 352

In the exercise of its authority and responsibility under Title Three, the Government of the United States shall accord due respect to the authority and responsibility of the Governments of the Marshall Islands and the Federated States of Micronesia under Titles One, Two and Four and to their responsibility to assure the well-being of their peoples.

Section 353

(a) The Government of the United States shall not include any of the Governments of the Marshall Islands and the Federated States of Micronesia as named parties to a formal declaration of war, without their respective consent.

(b) Absent such consent, this Compact is without prejudice, on the ground of belligerence or the existence of a state of war, to any claims for damages which are advanced by the citizens, nationals or Government of the Marshall Islands or the Federated States of Micronesia, which arise out of armed conflict subsequent to the effective date of this Compact and which are:

(1) petitions to the Government of the United States for redress; or

(2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under Section 353(b)(1) shall be treated as if they were made by citizens of the United States.

Section 354

(a) Notwithstanding any other provision of this Compact, the provisions of this Title are binding from the effective date of this Compact for a period of fifteen years between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia and thereafter as mutually agreed or in accordance with Section 231, unless earlier terminated by mutual agreement pursuant to Section 441, or amended pursuant to Article III of Title Four.

(b) The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, and in view of the existence of separate agreements with each of them pursuant to Sections 321 and 323, that, even if this Title should terminate, any attack on the Marshall Islands or the Federated States of Micronesia during the period in which such separate agreements are in effect, would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, the Government of the United States would take action to meet the danger to the United States and to the Marshall Islands and the Federated States of Micronesia in accordance with its constitutional processes.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of the Marshall Islands or the Federated States of Micronesia and subsequent to completion of the following:

(a) Approval by the Government of the Marshall Islands or the Federated States of Micronesia in accordance with its constitutional processes;

(b) Conduct of the plebiscite referred to in Section 412; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

Section 412

A plebiscite shall be conducted in each of the Marshall Islands and the Federated States of Micronesia for the free and voluntary choice by the peoples of the Trust Territory of the Pacific Islands of their future political status through informed and democratic processes. The Marshall Islands and the Federated States of Micronesia shall each be considered a voting jurisdiction, and the plebiscite shall be conducted under fair and equitable standards in each voting jurisdiction. The Administering Authority of the Trust Territory of the Pacific Islands, after consultation with the Governments of the Marshall Islands and the Federated States of Micronesia, shall fix the date on which the plebiscite shall be called in each voting jurisdiction. The plebiscite shall be called jointly by the Administering Authority of the Trust Territory of the Pacific Islands and the other Signatory Government concerned. The results of the plebiscite in each voting jurisdiction shall be determined by a majority of the valid ballots cast in that voting jurisdiction.

Article I1

Conference and Dispute Resolution

Section 421

The Government of the United States shall confer promptly at the request of the Government of the Marshall Islands or the Federated States of Micronesia and any of those Governments shall confer promptly at the request of the Government of the United States on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States, or the Government of the Marshall Islands or the Federated States of Micronesia, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments which are parties to the dispute shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an Arbitration Board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An Arbitration Board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute. Each of the two Governments which is a party to the dispute shall appoint one member to the Arbitration Board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the Arbitration Board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a Chairman within 15 days after selection of the other members of the Arbitration Board. Failing agreement on a Chairman, the Chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The Arbitration Board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and V of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the Arbitration Board shall have one vote. Each decision of the Arbitration Board shall be reached by majority vote.

(d) In determining any legal issue, the Arbitration Board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The Arbitration Board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the Arbitration Board shall endeavor to render its decision within 30 days after the conclusion of arguments. The Arbitration Board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the Arbitration Board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the other party to the dispute.

Article III

Amendment

Section 431

The provisions of this Compact may be amended as to the Governments of the Marshall Islands and the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement.

Section 432

The provisions of this Compact may be amended as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement. The effect of any amendment made pursuant to this Section shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Compact shall be notified promptly by the Government of the United States of any such amendment.

Article IV

Termination

Section 441

This Compact may be terminated as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States by mutual agreement and subject to Section 451.

Section 442

This Compact may be terminated by the Government of the United States as to the Government of the Marshall Islands or the Federated States of Micronesia subject to Section 452, such termination to be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended.

Section 443

This Compact shall be terminated, pursuant to their respective constitutional processes, by the Government of the Marshall Islands or the Federated States of Micronesia subject to Section 453 if the people represented by such Government vote in a plebiscite to terminate. Such Government shall notify the Government of the United States of its intention to call such a plebiscite which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by such Government in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, such Government shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

Article V

Survivability

Section 451

Should termination occur pursuant to Section 441, economic assistance by the Government of the United States shall continue on mutually agreed terms.

Section 452

(a) Should termination occur pursuant to Section 442, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

(1) Article VI and Sections 172, 173, 176 and 177 of Title One;

(2) Article I and Section 233 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) The Government of the United States shall also provide the Government as to which termination occurs pursuant to Section 442 with either the programs or services provided pursuant to Article II of Title Two at the time of termination, or their equivalent, as determined by the Government of the United States. Such assistance shall continue until the fifteenth anniversary of the effective date of this Compact, and thereafter as mutually agreed.

Section 453

(a) Should termination occur pursuant to Section 443, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

(1) Article VI and Sections 172, 173, 176 and 177 of Title One;

(2) Title Three; and

(3) Articles II, III, V and VI of Title Four.

(b) Upon receipt of notice of termination pursuant to Section 443, the Government of the United States and the Government so terminating shall promptly consult with regard to their future relationship. These consultations shall determine the level of economic assistance which the Government of the United States shall provide to the Government so terminating for the period ending on the fifteenth anniversary of the effective date of this Compact provided that the annual amounts specified in Sections 211, 212, 214, 215 and 216 shall continue without diminution. Such amounts, with the exception of those specified in Section 216, shall be adjusted according to the formula set forth in Section 217.

Section 454

Notwithstanding any other provision of this Compact:

(a) The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the peoples of the Marshall Islands and the Federated States of Micronesia; and

(b) The separate agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms which shall also determine the duration of Section 213.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact only and without prejudice to the views of the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia as to the nature and extent of the jurisdiction under international law of any of them, the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of Palau or the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "The Marshall Islands" and "the Federated States of Micronesia" are used in a geographic sense and include the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Government of the Marshall Islands" means the Government established and organized by the Constitution of the Marshall Islands including all the political subdivisions and entities comprising that Government.

"Government of the Federated States of Micronesia" means the Government established and organized by the

Constitution of the Federated States of Micronesia including all the political subdivisions and entities comprising that Government.

(e) The following terms shall be defined consistent with the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5) as follows:

(1) "Radio Communications" means telecommunication by means of radio waves.

(2) "Station" means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radio communication service; each station shall be classified by the service in which it operates permanently or temporarily.

(3) "Broadcasting Service" means a radio communication service in which the transmissions are intended for direct reception by the general public, and which may include sound transmissions, television transmissions or other types of transmissions.

(4) "Broadcasting Station" means a station in the broadcasting service.

(f) "Frequency Assignment" means the same as 'Frequency Assignment' means in the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5).

(g) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full-time studies as long as such person maintains that status, or who has been physically present in the United States, the Marshall Islands or the Federated States of Micronesia for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(h) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in the Marshall Islands or the Federated States of Micronesia during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating

that the citizen has complied with the actual residence requirement of Section 141(a)(3).

(i) "Military Areas and Facilities" means those areas and facilities in the Marshall Islands or the Federated States of Micronesia reserved or acquired by the Government of the Marshall Islands or the Federated States of Micronesia for use by the Government of the United States, as set forth in the separate agreements referred to in Section 321.

(j) "Capital Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, adjusted by Section 217, which are to be obligated for:

(1) the construction or major repair of capital infrastructure; or

(2) public and private sector projects identified in the official overall economic development plan.

(k) "Current Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, adjusted by Section 217, which are to be obligated for recurring operational activities including infrastructure maintenance as identified in the annual budget justifications submitted yearly to the Government of the United States.

(l) "Official Overall Economic Development Plan" means the documented program of annual development which identifies the specific policy and project activities necessary to achieve a specified set of economic goals and objectives during the period of free association, consistent with the economic assistance authority in Title Two. Such a document should include an analysis of population trends, manpower requirements, social needs, gross national product estimates, resource utilization, infrastructure needs and expenditures, and the specific private sector projects required to develop the local economy of the Marshall Islands or the Federated States of Micronesia. Project identification should include initial cost estimates, with project purposes related to specific development goals and objectives.

(m) "Tariff Schedules of the United States" means the Tariff Schedules of the United States as amended from time to time and as promulgated pursuant to United States law and includes the Tariff Schedules of the United States Annotated (TSUSA), as amended.

(n) "Vienna Convention on Diplomatic Relations" means the Vienna Convention on Diplomatic Relations, done April 18, 1961, 23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.T.S. 95.

Section 462

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia, as appropriate, shall conclude related agreements which shall come into effect and shall survive in accordance with their terms, as follows:

(a) Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association;

(b) Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association;

(c) Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association;

(d) Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association;

(e) Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association;

(f) Agreement Concluded Pursuant to Section 234 of the Compact of Free Association;

(g) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association;

(h) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 227, 321 and 323 of the Compact of Free Association;

(i) Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association;

(j) Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association; and

(k) Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association.

Section 463

(a) Except as set forth in Section 463(b), any reference in this Compact to a provision of the United States Code or the Statutes at Large of the United States constitutes the incorporation of the language of such provision into this Compact, as such provision was in force on January 1, 1980.

(b) Any reference in Article VI of Title One and Sections 131, 174, 175, 178 and 342 to a provision of the United States Code or the Statutes at Large of the United States or to the Privacy Act, the Freedom of Information Act or the Administrative Procedure Act constitutes the incorporation of the language of such provision into this Compact as such provision is in force on the effective date of this Compact or as it may be amended thereafter on a non-discriminatory basis according to the constitutional processes of the United States.

Article VII

Concluding Provisions

Section 471

(a) The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree that they have full authority under their respective Constitutions to enter into this Compact and its related agreements and to fulfill all of their respective responsibilities in accordance with the terms of this Compact and its related agreements. The Governments pledge that they are so committed.

(b) Each of the Governments of the United States, the Marshall Islands and the Federated States of Micronesia shall take all necessary steps, of a general or particular character, to ensure, not later than the effective date of this Compact, the conformity of its laws, regulations and administrative procedures with the provisions of this Compact.

(c) Without prejudice to the effects of this Compact under international law, this Compact has the force and effect of a statute under the laws of the United States.

Section 472

This Compact may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Marshall Islands, and the Government of the Federated States of Micronesia. Each Government accepting this Compact shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Compact of Free Association which shall come into effect in accordance with its terms between the Government of the United States and each of the other Governments signatory to this Compact.

DONE AT HONOLULU, HAWAII, THIS 1st DAY
OF OCTOBER, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS

DONE AT HONOLULU, HAWAII, THIS 1st DAY
OF OCTOBER, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE FEDERATED STATES OF MICRONESIA

HONORABLE ANDON L. AMARAICH
CHAIRMAN, COMMISSION ON FUTURE
POLITICAL STATUS AND TRANSITION

DONE AT MAJURO, MARSHALL ISLANDS, THIS 25th DAY
OF JUNE, ONE THOUSAND, NINE HUNDRED EIGHTY-THREE

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS

DONE AT MAJURO, MARSHALL ISLANDS, THIS 25th DAY
OF JUNE, ONE THOUSAND, NINE HUNDRED EIGHTY-THREE

FOR THE GOVERNMENT
OF
THE MARSHALL ISLANDS

PRESIDENT AMATA KABUA
PRESIDENT OF THE REPUBLIC
OF THE MARSHALL ISLANDS

SEC. 1.

(a) With respect to Section 321 of the Compact of Free Association and its related agreements, the jurisdictional provisions set forth in subsection (b) of this section shall apply only to the citizens and nationals of the United States and aliens lawfully admitted to the United States for permanent residence who are in the Marshall Islands or the Federated States of Micronesia.

(b) The defense sites of the United States established in the Marshall Islands or the Federated States of Micronesia in accordance with the Compact of Free Association and its related agreements are within the special maritime and territorial jurisdiction of the United States as set forth in Section 7, Title 18, United States Code.

(i) Any person referred to in subsection (a) of this section who within or upon such defense sites is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State of Hawaii by the laws thereof, in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(ii) The United States District Court for the District of Hawaii shall have jurisdiction to try all criminal offenses against the United States, including the laws of the State of Hawaii made applicable to the defense sites in the Marshall Islands or the Federated States of Micronesia by virtue of subsection (b)(i) of this section, committed by any person referred to in subsection (a) of this section.

(iii) The United States District Court for the District of Hawaii may appoint one or more magistrates for the defense sites in the Marshall Islands. Such Magistrates shall have the power and the status of Magistrates appointed pursuant to chapter 43, title 28, United States Code, provided, however that such Magistrates shall have the power to try persons accused of and sentence persons convicted of petty offenses, as defined in section 1(3), title 18, United States Code, including violations of regulations for the maintenance of peace, order, and health issued by the Commanding Officer on such defense sites, without being subject to the restrictions provided for in section 3401(b), title 18, United States Code.

SEC. 3.

Upon the effective date of the Compact of Free Association, the laws of the United States generally applicable to the Trust Territory of the Pacific Islands shall continue to apply to the Republic of Palau and the Republic of Palau shall be eligible for such proportion of Federal assistance as it would otherwise have been eligible to receive under such laws prior to the effective date of the Compact, as determined by the Government of the United States.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the joint resolution, S.J. Res. 77, as reported.

APPENDIX

Compact Of Free Association Subsidiary Agreements

Office for Micronesian Status Negotiations
Washington, D.C. 20240
1983

Compact Of Free Association
Multilateral Agreements

Agreement Regarding the Provision
of Telecommunication Services by the
Government of the United States
to
the Marshall Islands and the
Federated States of Micronesia
Concluded Pursuant to Section 131 of
the Compact of Free Association

Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association

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Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association

This Agreement is concluded by the Signatory Governments and sets forth their respective authority and responsibility with regard to the provision of telecommunication services by the Government of the United States to the Government of the Marshall Islands and to the Government of the Federated States of Micronesia as authorized by Section 131 of the Compact of Free Association (the Compact).

Article I

Definitions

Article I

Definitions

1. The definition of terms set forth in Article VI of Title Four of the Compact are incorporated in this Agreement.

2. For the purposes of this Agreement only, the following term shall have the following meaning:

"International Telecommunication Union (ITU) Administration": is for the purposes of this Agreement the Government of the United States.

Article II

Authority and Responsibility

Article II

Authority and Responsibility

1. The Governments of the Marshall Islands and the Federated States of Micronesia, which are competent and capable under Section 121 of the Compact to conduct foreign affairs in their own name and right with respect to, among other things, communications, have requested that the Government of the United States act as their agent with regard to the provision of certain communications services set forth in Section 131 of the Compact.

2. The Government of the United States shall provide telecommunication services to the Governments of the Marshall Islands and the Federated States of Micronesia as authorized by Section 131 of the Compact. Pursuant to Section 131, the Government of the United States shall represent the interests of the Governments of the Marshall Islands and the Federated States of Micronesia before the International Telecommunication Union (ITU) and other administrations concerned with international telecommunication in matters pertaining to the International Telecommunication Convention.

3. When the Government of the United States acts on behalf of the Government of the Marshall Islands or the Federated States of Micronesia pursuant to paragraph 2 of this Article, the Government of the United States shall act in accordance with the provisions of the laws and regulations of the United States which the Government of the United States determines are applicable to the Marshall Islands or the Federated States of Micronesia at such time. The actions of the Government of the United States shall be consistent with the following:

a. Prior to the Government of the United States acting on behalf of the Government of the Marshall Islands or the Federated States of Micronesia in its capacity as ITU Administration, wherever preparation for, or representation at plenipotentiary or administrative conferences of the Union is concerned, the Government of the United States shall consult with the Government concerned on matters which in the opinion of the Government of the United States relate to or affect any such Government. These consultations shall occur in order for the Government of the Marshall Islands or the Federated States of Micronesia to present its views to the Government of the United States which shall consider these views when developing United States proposals and positions in connection with the conference preparatory efforts cited hereinbefore. No consultations need be undertaken in respect to matters which, in the opinion of the ITU Administration arise by virtue of due application of the regulatory provisions of the international Radio Regulations then in force.

b. The Government of the United States shall notify the Government of the Marshall Islands or the Federated States of Micronesia of significant actions of the ITU and other administrations which the Government of the United States regards as relating to or affecting such governments.

c. When developing those rules and regulations of the United States which may be applicable to the Government of the Marshall Islands or the Federated States of Micronesia pursuant to paragraph 2 of this Article, the Government of the United States shall give prior notice of its intentions to the Governments of the Marshall Islands and the Federated States of Micronesia and shall take into account all views expressed by or on behalf of the Government of the Marshall Islands or the Federated States of Micronesia in connection with the relevant rulemaking proceedings.

d. The provisions of Section 421 of the Compact shall apply, and the Government of the United States shall confer promptly at the request of the Government of the Marshall Islands or the Federated States of Micronesia and that government shall confer promptly with the Government of the United States on matters relating to this Agreement except in respect to matters which, in the opinion of the ITU Administration, arise by virtue of due application of the regulatory provisions of the International Radio Regulations then in force.

e. For the purpose of carrying out the provisions of this Agreement, Competent Authorities shall be designated by each of the Signatory Governments. The Competent Authority of the Government of the United States and the Competent Authority of the Government of the Marshall Islands or the Federated States of Micronesia may communicate directly with each other. The designation by a government of its Competent Authority will be communicated in writing to the other signatory governments, and such designation may, from time to time, be amended.

4. a. The authority and responsibility of the Government of the United States pursuant to paragraph 1 of this Article is without prejudice to the authority and responsibility of the Government of the Marshall Islands or the Federated States of Micronesia with regard to telecommunication in the Marshall Islands or the Federated States of Micronesia, except as may otherwise be required by the International Telecommunication Convention as completed by the Administrative Regulations.

b. The Governments of the Marshall Islands and the Federated States of Micronesia shall develop, prior to conducting any telecommunication activity in the Marshall Islands or the Federated States of Micronesia, respectively, standards and procedures, as recommended by the Government of the United States, which shall be consistent with the ITU Convention inasmuch as this Convention is a treaty obligation of the ITU Administration for the Governments of the Marshall Islands and the Federated States of Micronesia. In developing, implementing and maintaining these standards and procedures, the Governments of the Marshall Islands and the Federated States of Micronesia shall take whatever steps may be required by the ITU Convention, as completed by the Administrative Regulations, such that the ITU Administration for the Governments of the Marshall Islands and the Federated States of Micronesia may fully meet its obligations under that Convention.

Article III

Transition

Article III

Transition

1. Upon receipt of notice pursuant to Article IV of this Agreement from the Government of the Marshall Islands or the Federated States of Micronesia, the Government of the United States shall assist the requesting government in obtaining membership in the ITU. After receipt of notice from the ITU of the requesting government's qualification to act, the Government of the United States shall take such actions as may be necessary to transfer to the electing government all relevant obligations and rights.

2. Upon termination of the functions enumerated in Section 131 of the Compact by the Government of the United States, the applicability of all laws of the United States, and of its regulations, practices, policies, treaties, conventions, and arrangements which are applicable to this Agreement shall cease to be applicable in the territory of the Government which has given such written notice, and any authority and responsibility of the Government of the United States in respect to such services shall also cease.

Article IV

Effective Date, Amendment and Duration

Article IV

Effective Date, Amendment and Duration

1. This Agreement shall come into effect simultaneously with the Compact.

2. The provisions of this Agreement may be amended:

(a) as to the Governments of the Marshall Islands and the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement; and

(b) as to the Government of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement. The effect of any amendment made pursuant to this subsection shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Agreement shall be notified promptly by the Government of the United States of any such amendment.

3. This Agreement shall remain in force for a period of fifteen years, subject to Section 231 and Article IV of Title Four of the Compact and in the absence of action to the contrary by a Plenipotentiary Conference of the ITU, unless terminated by a signatory Government in the following manner:

(a) Termination of this Agreement by any signatory Government shall be effected by a written notification to either the Government of the United States or to the Government of the Marshall Islands or the Federated States of Micronesia, as appropriate. The Government of the United States shall notify the other signatory Governments of such notification;

(b) Termination shall take effect as mutually agreed or one year after the recipient Government has been notified, but not before receipt of notice from the ITU of the requesting governments qualification to act; and

(c) This Agreement shall continue in force as between the Government of the United States and the remaining signatory Governments.

4. This Agreement may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Government of the Marshall Islands and the Government of the Federated States of Micronesia. Each Government accepting this Agreement shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement Regarding the Provision of Telecommunication Services which shall come into effect in accordance with its terms between the Government of the United States and the other Governments signatory to this Agreement.

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE FEDERATED STATES OF MICRONESIA

Agreement Regarding the Provision of Telecommunication Services of the Government of the United States to Palau, the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association

DONE AT Majuro, Marshall Islands, this 25th day of June, one thousand, nine hundred eighty-three

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

- - - - - - -

DONE AT Majuro, Marshall Islands, this 25th day of June, one thousand, nine hundred eighty-three

FOR THE GOVERNMENT

OF

THE MARSHALL ISLANDS

A-1

Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association

AGREED MINUTE

The Signatory Governments agree that in order to facilitate common carrier, including satellite, telecommunications in the Marshall Islands and the Federated States of Micronesia, this Agreement shall be amended as to the matter of United States Federal Communications Commission (FCC) jurisdiction in the Marshall Islands and the Federated States of Micronesia.

Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association

Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association

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Agreed Minute

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Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association

This Agreement is concluded by the Signatory Governments and sets forth their respective authority and responsibility with regard to the operation of telecommunication services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia as authorized by Section 132 of the Compact of Free Association (the Compact).

Article I

Definitions

Article I

Definitions

1. The Definition of Terms set forth in the following documents are incorporated into this Agreement:

a. Article VI of Title Four of the Compact;

b. Paragraph 2 of Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact (the Status of Forces Agreement); and

c. Paragraph 2 of Article I of the Federal Programs and Services Agreement Concluded Pursuant to Sections 221, 224, 225 and 232 of the Compact (the Federal Programs and Services Agreement).

Article II

General Provisions

Article II

General Provisions

1. The Governments of the Marshall Islands and the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in the Marshall Islands and the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the United States under the Compact.

2. The Government of the United States may take within the Marshall Islands and the Federated States of Micronesia measures for the installation, operation and maintenance of its telecommunication services, including:

(a) the operation and maintenance of all telecommunication facilities, and use of the associated radio frequencies authorized for use or in use upon the entry into force of this agreement;

(b) the installation, operation and maintenance of new or additional telecommunication facilities in the Marshall Islands and the Federated States of Micronesia. Such actions will be coordinated with the respective Government of the Marshall Islands or the Federated States of Micronesia;

(c) the regulation and control of all telecommunications of the Government of the United States, including the licensing of operations personnel; and

(d) the use of codes, ciphers and other means of cryptographic security.

3. The Government of the Marshall Islands and the Government of the Federated States of Micronesia:

(a) Authorize the operation of United States telecommunication facilities, and the provision of frequencies to the Government of the United States shall be free from all license requirements, taxes, duties, fees and charges;

(b) Shall make prompt and reasonable efforts to satisfy requests by the Government of the United States for changes in existing frequencies and for requests for additional frequencies; and

(c) Shall accept as its own, without a test or fee, the permits or licenses issued to United States personnel by the Government of the United States.

4. (a) For the purpose of carrying out the provisions of this Agreement, Competent Authorities shall be designated by each of the signatory Governments. The Competent Authority of the Government of the United States and the Competent Authority of the Gov-

ernment of the Marshall Islands or the Competent Authority of the Government of the Federated States of Micronesia may communicate directly with each other. The designation by a government of the Competent Authority will be communicated in writing to all other signatory governments and such designation may, from time to time, be amended.

(b) In order to harmonize the telecommunication operations of the Government of the United States with those of the Governments of the Marshall Islands and the Federated States of Micronesia, the Competent Authorities shall establish a Joint Telecommunication Board which shall meet at least semi-annually or more often as may be required. The Board will review plans for changes to the respective telecommunication systems of the parties to ensure maximum possible compatibility and interoperability. The United States shall act as the secretariat for this board and shall host the initial meeting of the Board. The secretariat and host for later meetings will be as mutually agreed by the parties.

5. The Government of the United States, through its Competent Authority, shall coordinate proposed major changes to United States telecommunications and extraordinary activities or exercises which would have the potential of causing either electromagnetic or physical interference with other systems used or licensed by the Government of the Marshall Islands or the Federated States of Micronesia. The Government of the Marshall Islands or the Federated States of Micronesia, through its Competent Authority, shall coordinate similiar changes with the United States Competent Authority. The Government of the United States and the Government of the Marshall Islands and the Federated States of Micronesia respectively shall use their best efforts to avoid both electromagnetic and physical interference to each other's telecommunication operations. In the event the Competent Authorities cannot reach a mutually satisfactory agreement through consultations, the matter will be referred to their respective governments for resolution in accordance with the provisions of Article V of Title Three or Article II of Title Four of the Compact as appropriate.

6. Transmitter and receiver antennas installed by the Government of the United States shall be located and constructed so as not to constitute hazards including, inter alia, hazards to air navigation.

Article III

Defense Telecommunication Provisions

Article III

Defense Telecommunication Provisions

1. The Armed Forces of the United States and their United States contractors may take in the Marshall Islands and the Federated States of Micronesia measures for the installation, operation and maintenance of telecommunication services pursuant to Title Three of the Compact and its subsidiary agreements. These measures include the right, as provided for in this agreement, to install, operate and maintain:

(a) Radio communication, radar and telemetry systems including:

(1) Major radio communication facilities as links with the world-wide military network of the United States;

(2) Such other lesser radio-telephonic and telegraphic communication facilities including the Military Affiliate Radio System as may be required for the support of military and administrative services of the Armed Forces of the United States;

(3) Television systems;

(4) Radio facilities for communication with aircraft and surface vessels;

(5) Satellite communications;

(6) Such other broadcast stations contributing to the morale, welfare and training of the Armed Forces of the United States and its contractors, which includes the Armed Forces Radio and Television Service, and short-range broadcast stations; and

(7) Such other telecommunication facilities as may be required from time to time.

(b) Aids to air navigation and airfield approach control systems including electronic navigation and landing aids, such as airport surveillance radars, ground control approach (GCA), TACAN and instrument landing systems (ILS), and other such aids as may be developed and adapted for such use.

(c) Telecommunication equipment in connection with the operation of weather facilities.

Article IV

United States Federal Programs and Services

Article IV

United States Federal Programs and Services Telecommunication Provisions

United States Federal Agencies and their United States contractors may take in the Marshall Islands and the Federated States of Micronesia measures for the installation, operation and maintenance of telecommunication services in support of United States Federal Programs and Services as set forth in the Agreement concluded pursuant to Sections 221, 224, 225 and 232 of the Compact.

Article V

Effective Date, Amendment and Duration

Article V

Effective Date, Amendment and Duration

1. This Agreement shall enter into force simultaneously with the Compact.

2. The provisions of this Agreement may be amended:

(a) As to all of the Governments of the Marshall Islands and the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement; and

(b) As to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement. The effect of any amendment made pursuant to this subsection shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Agreement shall be notified promptly by the Government of the United States of any such amendment.

3. This Agreement shall remain in force in accordance with the following terms:

(a) Articles I, II, III and V of this Agreement shall remain in force as between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia for the period of effectiveness of their respective Military Use and Operating Rights Agreements Concluded Pursuant to Sections 321 and 323 of the Compact; and

(b) Articles I, II, IV and V of this Agreement shall remain in force as between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia for the period of effectiveness of the provisions of Article XIV of the Federal Programs and Services Agreement Concluded Pursuant to Sections 221, 224, 225 and 232 of the Compact.

4. This Agreement may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Government of the Marshall Islands and the Government of the Federated States of Micronesia. Each Government accepting this Agreement shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement Regarding the Operation of Telecommunication Services which shall come into effect in accordance with its terms between the Government of the United States and the other Governments signatory to this Agreement.

DONE AT Honolulu, Hawaii, THIS 30th DAY

OF May, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 30th DAY

OF May, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE MARSHALL ISLANDS

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT

OF

THE FEDERATED STATES OF MICRONESIA

Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association

AGREED MINUTE

Article II, General Provisions: In the Marshall Islands and the Federated States of Micronesia, permits or licenses issued to United States personnel by the Government of the United States shall be solely for the operation of telecommunication facilities of the Government of the United States.

Article III, Defense Telecommunication Provisions:

(a) The list of activities contained in Article III, paragraph 1 of this Agreement, is a non-exclusive, illustrative listing of the telecommunications activities which the United States may take in the Marshall Islands or the Federated States of Micronesia.

(b) The term "television systems" as used in Article III, paragraph 1 (a) (3) refers only to such systems used for surveillence monitoring, security systems and other such uses, but not including television broadcast stations as addressed in Article III, paragraph 1 (a) (6).

(c) The Government of the United States shall not undertake any actions to install or operate broadcast stations pursuant to Article III, paragraph 1 (a) (6) of this agreement without the prior agreement between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia.

Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of The Compact of Free Association

Agreement in Implementation
of Section 175 of
The Compact of Free Association

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Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of The Compact of Free Association

This Agreement is concluded by the Signatory Governments as an international agreement and sets forth the obligations, duties, and procedures between the Governments of the United States and the Marshall Islands and the Federated States of Micronesia, respectively, regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and transfer of prisoners pursuant to Section 175 of the Compact of Free Association (the Compact).

TITLE ONE

DEFINITIONS

Article I

Definitions

1. The definition of terms set forth in Article VI of Title Four of the Compact is incorporated in this Agreement.

2. For the purposes of Titles Two, Three and Four of this Agreement only, the following terms shall have the following meanings:

(a) "Signatory Governments" means the Government of the United States and the Government of the Marshall Islands or the Government of the United States and the Government of the Federated States of Micronesia. As used here, the Government of the United States shall include the Governments of the states of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

(b) "Jurisdiction" is used in a geographic sense. The term "jurisdiction of the requesting/requested Government" when applied to the Government of the Marshall Islands or the Federated States of Micronesia, means "the Marshall Islands" and "the Federated States of Micronesia" as defined in Section 461(c) of the Compact.

(c) "Judge" as used in this Agreement shall include any judicial officer of a Signatory Government who has the authority to issue a warrant of arrest or its equivalent.

(d) "Investigation" means an investigation being conducted by a grand jury or by a law enforcement or administrative agency of a "Signatory Government".

(e) "Proceeding" means a proceeding before an administrative or judicial tribunal of a "Signatory Government".

(f) "Resident Representative" means a person so designated by the sending Government pursuant to Section 152(b) of the Compact and serving in that capacity.

TITLE TWO

EXTRADITION

Article I

Obligation to Extradite

The Government of the United States shall extradite to the Marshall Islands or the Federated States of Micronesia and the Government of the Marshall Islands or the Federated States of Micronesia shall extradite to the United States, subject to the provisions and conditions described in this Agreement, any person found in their respective jurisdictions against whom the requesting Government is proceeding for an offense or who is wanted by that Government for the enforcement of a sentence.

Article II

Extraditable Offenses

1. (a) Extraditable offenses, pursuant to the provisions of this Agreement are:

(1) Offenses listed in the Schedule of Offenses appended to this Agreement which are punishable under the laws of both the requesting and requested Signatory Governments by deprivation of liberty for at least a period exceeding one year or by a more severe penalty; or

(2) Offenses, regardless of whether listed in the Schedule of Offenses appended to this Agreement or not, which are punishable under both the federal laws of the United States and the national laws of the Marshall Islands or the Federated States of Micronesia, respectively, by deprivation of liberty for at least a period exceeding one year or by a more severe penalty.

(b) For purposes of extradition, it shall not matter whether the laws of the requesting and requested Signatory Governments place the offense within the same category of offenses or describe an offense by the same terminology.

2. Extradition shall be granted in respect of an extraditable offense for the enforcement of a penalty or prison sentence if the duration of the penalty or prison sentence still to be served amounts to at least six months.

3. Subject to the conditions set out in paragraph 1 of this Article extradition shall also be granted:

(a) For attempt or conspiracy to commit, or participation as a principal, accomplice or accessory in, any extraditable offense; and

(b) For any otherwise extraditable offense, whether or not the offense is one for which the laws of the United States require proof of interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such considerations being solely for the purpose of establishing jurisdiction in a federal court of the United States.

4. When a request for extradition is granted in respect of an extraditable offense, it may also be granted for an offense which could not otherwise fulfill the requirements of paragraphs 1 and 2 of this Article as related to the period of deprivation of liberty for which the offense is punishable or as related to the duration of the sentence to be served in the jurisdiction of the requesting Government.

5. Extradition shall be granted in respect of an extraditable offense committed outside the territory of the requesting Signatory Government if:

(a) The courts of the requested Government would be competent to prosecute in similar circumstances; or

(b) The person sought is a citizen or national of the requesting Government.

Article III

Exceptions to Extradition

1. Extradition shall not be granted:

(a) When the person whose surrender is sought is being prosecuted or has been convicted, discharged or acquitted by the requested Government for the offense for which extradition is requested; or

(b) When the prosecution of the offense is barred by lapse of time according to the laws of the requesting Government.

2. Subject to paragraph 3 of this Article, extradition may be refused when the Executive Authority of the requested Government, in its sole discretion, determines:

(a) That the offense in relation to which extradition is requested is of a political character; or

(b) That the request for extradition has been made for the purpose of trying or punishing the person whose extradition is sought for an offense of a political character.

3. Extradition shall not be refused on the basis of paragraph 2 of this Article where the offense for which extradition is requested involves a murder or willful crime, including attempts, against the life or physical integrity of a Head of State or Head of Government or any other internationally protected person, including resident representatives, or where the offense for which extradition is sought is one which the requesting Government has the obligation to prosecute by reason of a multilateral treaty or other international agreement.

Article IV

Capital Punishment

When the offense for which extradition is requested is punishable by death under the laws of the requesting Government and the laws of the requested Government do not permit such punishment for that offense, extradition may be refused unless the requesting Government provides such assurances as the Executive Authority of the requested Government considers sufficient that the death penalty will not be imposed, or, if imposed, will not be executed.

Article V

Deferred or Temporary Surrender

After a decision on a request for extradition has been rendered in the case of a person who is being proceeded against or is serving a sentence in the jurisdiction of the United States, the Marshall Islands, or the Federated States of Micronesia for an offense other than that for which extradition has been requested, the requested Government may defer the surrender of the person sought until the conclusion of the proceedings against that person, or the full execution of any punishment that may be, or may have been, imposed; or temporarily surrender the person sought to the requesting Government solely for the purpose of prosecution. The person so surrendered shall remain in custody during the period of surrender and shall be returned at the conclusion of the proceedings against that person in accordance with conditions to be determined by agreement of the Executive Authorities of the affected Governments in each case.

Article VI

Extradition Procedures and Required Documents

1. The request for extradition shall be made to the requested national Government by the requesting national Government on behalf of itself or one or more political subdivisions. The requesting Government shall promptly notify the resident representative of the requested Government of its extradition request. Such requests, supporting documentation and notices shall be in the English language.

2. The request shall be accompanied by a description of the person sought, a statement of the facts of the case, the text of the applicable provisions of the laws of the requesting Government describing the offense and punishment, and a statement of its applicable laws relating to proceedings barred by lapse of time.

3. When the request relates to a person who has not yet been convicted, it shall also be accompanied by a copy of a warrant of arrest issued by a judge or other judicial officer of the requesting Government and by such evidence as would provide probable cause, according to the laws of the requested Government, to believe that the person sought has committed the offense for which extradition is requested.

4. When the request relates to a convicted person, it shall be supported by a copy of the judgment of conviction and evidence establishing that the person sought is the person to whom the conviction refers. If no sentence has been imposed, the request for extradition shall be accompanied by a statement to that effect. If a sentence has been imposed, the request for extradition shall be accompanied by a statement to that effect, by a copy of the sentence or committal order and by a statement showing the portion of the sentence remaining to be served.

5. Documentary evidence from the requesting Government in support of a request for extradition shall be deemed duly authenticated and shall be admissible in evidence in the extradition hearing when it bears a seal of the requesting Government, the authenticity of which is attested to by the resident representative of the requesting Government assigned or accredited to the requested Government, or by the resident representative of the requested Government assigned or accredited to the requesting Government, or by the designee of such a resident representative.

6. The requested Government shall promptly communicate to the requesting Government the decision on the request for extradition.

Article VII

Provisional Arrest or Detention

1. In case of urgency, a requesting Government may apply to the requested Government for the provisional arrest or detention of the person sought pending the presentation of the formal request for extradition. The request may be transmitted to the requested Government by the resident representative of the requesting Government.

2. The application shall contain: a description of the person sought, including, if available, the person's nationality; a brief statement of the facts of the case, including, to the extent possible, the time and location of the offense; a statement of the existence of a warrant of arrest or detention or a judgment of conviction against that person; and a statement of intention to request the extradition of the person sought.

3. On receipt of such an application, the requested Government shall take the appropriate steps to secure the arrest or detention of the person sought. The requested Government shall promptly notify the requesting Government of its action.

4. The proceedings against the person so arrested or detained shall be terminated and that person discharged upon expiration of forty-five days, unless otherwise agreed, from the date of arrest or detention pursuant to such application if the request for extradition referred to in Article VI of Title Two of this Agreement is not received by the requested Government. The requested Government shall sympathetically consider a request for extension not to exceed an additional fifteen days. Such termination and discharge shall not prevent the institution of further proceedings for the extradition of that person.

Article VIII

Rule of Speciality

1. A person extradited under this Agreement shall not be arrested, detained, tried or punished in the jurisdiction of the requesting Government for an offense other than that for which extradition has been granted nor be extradited by that Government to another signatory Government or a third country unless:

(a) That person has left the jurisdiction of the requesting Government after extradition and has voluntarily returned to it;

(b) That person has not left the jurisdiction of the requesting Government within thirty days after being free to do so; or

(c) Upon such conditions as may be prescribed by the requested Government, that Government:

(1) Has consented to the arrest, detention, trial or punishment of that person for an offense other than that for which extradition was granted; or

(2) Has consented to extradition to another signatory Government or to a third country.

2. Paragraph 1 of this Article shall not apply to offenses committed after extradition.

3. Instead of the offense for which a person was extradited, after notice to the requested Government, the person may be tried or punished for a different offense, including a lesser included offense, provided that it is:

(a) Based on the same facts as were set out in the request for extradition and the supporting evidence;

(b) Punishable by no greater penalty than the offense for which the person was extradited; and

(c) An offense referred to in the Schedule of Offenses appended to this Agreement or in paragraph 1 (a) of Article II of Title Two.

Article IX

Multiple Extradition Requests

When requests for extradition of the same person are received from the requesting Government and one or more other Governments, the requested Government shall have the discretion to determine to which Government the person is to be extradited.

Article X

Surrender

When a request for extradition has been granted, surrender of the person sought shall take place within such time as may be prescribed by the laws of the requested Government.

Article XI

Waiver

1. A person whose extraditon is sought may at any time voluntarily waive extradition proceedings. The waiver shall be in writing, endorsed by a judge, and have the effect of a final decision of the requested Government to surrender that person.

2. A certified copy of the waiver shall constitute sufficient authority to maintain the person sought in custody within the jurisdiction of the requested Government and to deliver that person into the custody of the requesting Government.

Article XII

Surrender of Property

1. To the extent permitted under the laws of the requested Government and subject to the rights of third parties, all property relating to the offense shall at the request of the requesting Government be seized and surrendered upon the granting of the extradition. This property shall be handed over even if the extradition cannot be effected due to the death, escape or disappearance of the person sought.

2. The requested Government may make the surrender of the property conditional upon a satisfactory assurance from the requesting Government that the property shall be returned to the requested Government as soon as possible.

Article XIII

Transit

1. Upon prior notice, the Government of the United States shall have the right to transport through the jurisdictions of the Governments of the Marshall Islands and the Federated States of Micronesia persons surrendered by a Signatory Government or a third country.

2. Upon prior notice, the Government of the Marshall Islands or the Federated States of Micronesia shall have the right to transport through the jurisdiction of the Signatory Governments persons surrendered by the Government of the United States or a third country.

3. When such transport is by air and no stop is scheduled in the jurisdiction of a Signatory Government, but is required by extenuating circumstances, no prior notice shall be required.

Article XIV

Expenses

1. The requesting Government shall bear the cost of transportation of the person sought.

2. The appropriate legal officers of the requested Government shall act as counsel for the requesting Government except as otherwise agreed.

Article XV

Extradition of Citizens or Nationals

1. No Signatory Government shall be bound to extradite its own citizens or nationals, but may grant extradition if, in its discretion, extradition is deemed proper.

2. If the requested Government denies extradition solely on the basis of citizenship or nationality, it shall submit the case to its competent authorities for purposes of prosecution.

Article XVI

Relationship with Other Agreements

Offenses committed by United States personnel as defined in the Status of Forces Agreement shall be subject to the provisions of the Status of Forces Agreement only when such personnel are in the Marshall Islands or the Federated States of Micronesia; otherwise the provisions of this Agreement shall govern.

TITLE THREE

JUDICIAL ASSISTANCE

Article I

Judicial Assistance

1. The United States District Court of the district in which a person resides or is found may order that person to give testimony or a statement or to produce a document or other thing for use in a judicial, administrative or criminal investigation or proceeding in the Marshall Islands or the Federated States of Micronesia.

2. A national court in the Marshall Islands or the Federated States of Micronesia may order a person residing or found within its jurisdiction to give testimony or a statement or to produce a document or other thing for use in a judicial, administrative, or criminal investigation or proceeding in the United States.

3. The order may be made exclusively either pursuant to a letter rogatory issued or a request made by a court of one of the Signatory Governments, or pursuant to a request made by a department or ministry of justice of one of the Signatory Governments.

4. The order may direct that the testimony or statement be given or the documents or other things be produced before a person appointed by the court. By virtue of this appointment, the person appointed has power to administer any necessary oath and take the testimony or statement.

5. The order shall prescribe the procedure for taking the testimony or statement or producing the document or other thing. When requested, the prescribed procedure shall be designed to meet the requirements for admission in evidence of the testimony or statement to be given, or the document or other thing to be produced, in the place where it is sought to be used.

6. A person may not be compelled to give testimony or a statement or to produce a document or other thing in violation of any legal or constitutional right or privilege applicable in the jurisdiction in which the testimony or statement is given, or a document or other thing is produced.

7. This Agreement does not preclude a person from voluntarily giving testimony or a statement, or producing a document or other thing, for use in an investigation or proceeding in the United States, the Marshall Islands, or the Federated States of Micronesia.

8. Letters rogatory, requests and applications for assistance pursuant to this Title shall be in the English language.

TITLE FOUR

EXECUTION OF PENAL SANCTIONS

Article I

Scope

1. Sentences imposed by courts of the Marshall Islands and the Federated States of Micronesia on citizens or nationals of the United States may be served in penal institutions of the United States or under the supervision of its authorities in accordance with the provisions of this Agreement.

2. Sentences imposed by courts of the United States, or a state thereof, on citizens or nationals of the Marshall Islands or the Federated States of Micronesia may be served in penal institutions of the Marshall Islands or the Federated States of Micronesia, respectively, or under the supervision of its authorities in accordance with the provisions of this Agreement.

Article II

Definitions

For the purposes of this Title only:

1. "Transferring Government" means the Signatory Government from which the offender is to be transferred.

2. "Receiving Government" means the Signatory Government to which the offender is to be transferred.

3. "Offender" means a citizen or national of the Marshall Islands or the Federated States of Micronesia who has been sentenced by a court of the United States, or a state thereof; or a citizen or national of the United States who has been convicted by a court of the Marshall Islands or the Federated States of Micronesia.

4. "Category I Offender" means an "Offender" who comes within the meaning of the term "United States personnel", as that term is defined in paragraph 2(d) of Article I of the Status of Forces Agreement.

5. "Category II Offender" means all "Offenders" other than "Category I Offenders".

6. "State" when used in the sense of a part of the United States means any State of the United States, any territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

Article III

Eligibility

This Agreement shall apply only under the following conditions:

1. That the offense for which the Offender was convicted and sentenced is one which would be punishable in the Receiving Government; provided, however, that this condition shall not be interpreted so as to require that the offense described in the laws of both Governments be identical in those matters which do not affect the nature of the crime.

2. That the Offender be a citizen or national of the Receiving Government.

3. That the Offender has not been sentenced to the death penalty nor convicted of a purely military offense.

4. Except for Category I Offenders, that at least six months of the Offender's sentence remain to be served at the time of petition to transfer.

5. That the sentence be final, that any appeal procedures have been completed, and that there be no collateral or extraordinary remedies pending at the time of invocation of the provisions of this Agreement.

6. That the Offender's express consent, or the consent of a legal representative in the case of a minor or of an Offender who has become mentally incompetent, to transfer has been given voluntarily and with full knowledge of the legal consequences thereof.

7. That, before the transfer, the Transferring Government shall afford an opportunity to the Receiving Government to verify through an officer designated by the laws of the Receiving Government that the Offender's consent to the transfer has been given voluntarily.

Article IV

Transfer Procedures

1. The Signatory Government of which an Offender is a citizen or national shall make each request for transfer of an Offender in writing to the Transferring Government.

2. As to an eligible Category I Offender, no finding of the appropriateness of such consenting Offender's transfer by the Transferring Government shall be required. Once internal arrangements have been completed, the transfer of the Offender shall be effected.

3. As to a Category II Offender, if the Transferring Government considers the request to transfer the Offender appropriate, the Transferring Government will communicate its approval of such request to the Receiving Government so that, once internal arrangements have been completed, the transfer of the Offender may be effected.

4. (a) In deciding whether to request the transfer of a Category II Offender under paragraphs 1 and 3 of this Article and with the objective that the transfer should contribute positively to the Offender's social rehabilitation, the authorities of the Receiving Government will consider, among other factors: the seriousness of the crime; the Offender's previous criminal record, if any; the Offender's health status; and the ties which the Offender may have to the society of the Transferring Government and the Receiving Government.

(b) If the Offender gives his express consent to the transfer, the Transferring Government shall consider the request promptly and approve it in the absence of serious countervailing considerations, which it shall specify.

5. In any case in which a citizen or national of the Marshall Islands or the Federated States of Micronesia has been sentenced by a state of the United States, the approval of such an Offender's transfer pursuant to paragraph 3 of this Article shall be required from both the appropriate state authority and the federal authority.

6. When the Transferring Government does not approve, for whatever reason, the transfer of a Category II Offender, it shall communicate this decision to the Receiving Government without delay.

7. The Transferring Government shall furnish to the Receiving Government a certified copy of the sentence or judgment relating to the Offender. When the Receiving Government considers such information relevant, it may request, at its expense, copies of the trial record, or portions thereof, or such additional information as it deems necessary. The Transferring Government shall grant such requests to the extent permissible under its laws.

8. Delivery of an Offender by the authorities of the Transferring Government to those of the Receiving Government shall occur at a place agreed upon by the two Governments. The Receiving Government will be responsible for the custody and transport of the Offender from the Transferring Government.

9. The Receiving Government shall not be entitled to any reimbursement for the expenses incurred by it in the transfer of an Offender or the completion of the Offender's sentence.

Article V

Execution of Sentence

1. An Offender delivered for execution of sentence under this Agreement may not again be detained, tried or sentenced by the Receiving Government for the same offense for which the sentence was imposed by the Transferring Government.

2. Except as otherwise provided in this Agreement, the completion of a transferred Offender's sentence shall be carried out according to the laws and procedures of the Receiving Government, including the application of any provisions for reduction of the term of confinement by parole or conditional release.

3. Each Signatory Party may request reports indicating the status of confinement of all Offenders transferred by it under this Agreement, including in particular the parole or release of an Offender. A Transferring Government may, at any time, request from the Receiving Government a special report on the status of the execution of an individual sentence.

Article VI

Review or Modification of Sentence

The Transferring Government shall retain exclusive jurisdiction over the sentences imposed and any procedures that provide for revision or modification of the sentences pronounced by its courts. The Transferring Government also shall retain the power to pardon or grant amnesty or clemency to an Offender. The Receiving Government, upon being informed of any decision in this regard, will put such measures into effect.

Article VII

Transit

1. Upon prior notice, the Government of the United States shall have the right to transport through the jurisdictions of the Governments of the Marshall Islands and the Federated States of Micronesia Offenders being transferred by a Signatory Government or a third country.

2. Upon prior notice, the Government of the Marshall Islands or the Federated States of Micronesia shall have the right to transport through the jurisdiction of the Signatory Governments Offenders being transferred by the Government of the United States or a third country.

3. When such transport is by air and no stop is scheduled in the jurisdiction of a Signatory Government, but is required by extenuating circumstances, no prior notice shall be required.

TITLE FIVE

EFFECTIVE DATE, AMENDMENT AND DURATION

Article I

Effective Date, Amendment and Duration

1. This Agreement shall come into effect simultaneously with the Compact.

2. This Agreement may be amended at any time as to the Government of the Marshall Islands or the Federated States of Micronesia by mutual consent of such Government and the Government of the United States.

3. Titles One, Two and Three of this Agreement are effective as to the Signatory Government until terminated by that Government, in the following manner:

(a) Termination of this Agreement by any Signatory Government shall be effected by a written notification to either the Government of the United States or to the Government of the Marshall Islands or the Federated States of Micronesia, as appropriate. The Government of the United States shall notify all other Signatory Governments of each such notification.

(b) Termination shall take effect one year after the recipient Government has been notified, but this Agreement shall continue in force as between the Government of the United States and the remaining Signatory Governments.

4. Titles Four and Five of this Agreement are effective for the period of effectiveness of the Status of Forces Agreement, except for those provisions relating to Category II Offenders which may be terminated in accordance with paragraph 3 of this Article.

5. This Agreement may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Marshall Islands and the Government of the Federated States of Micronesia. Each Government accepting this Agreement shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions which shall come into effect in accordance with its terms between the Government of the United States and the other Governments signatory to this Agreement.

Appendix A

SCHEDULE OF OFFENSES

1. Offenses against the laws relating to homicide, including murder, manslaughter and causing death by criminal negligence.

2. Offenses against the laws relating to assault, wounding, maiming or causing grievous bodily harm.

3. Rape; indecent or sexual assault; incest; bigamy.

4. Unlawful sexual acts with or upon children under the age specified by the laws of both the requesting and requested Governments.

5. Willful nonsupport or willful abandonment of a minor or other dependent person when such person is or is likely to be injured, or the life of that person is or is likely to be endangered.

6. Kidnapping; abduction; false imprisonment.

7. Offenses against the laws relating to abortions.

8. Offenses against the laws relating to robbery, theft, breaking and entering, burglary, embezzlement, larceny or extortion.

9. Offenses against the laws relating to fraud, breach of trust, fraudulent conversion, or obtaining property, money or securities by fraud or false pretenses.

10. Offenses against the laws relating to bribery, payment of commissions or gratuities, or conflict of interests.

11. Offenses against the laws relating to the receipt or possession of property, including money or securities.

12. Offenses against the laws relating to counterfeiting or forgery.

13. Offenses against the laws relating to perjury, including subornation of perjury, making a false affidavit, statement, or statutory declaration.

14. Offenses against the laws relating to arson.

15. Offenses against the laws relating to obstruction of judicial proceedings or proceedings before governmental bodies; interference with the investigation of a violation of a statute by influencing, bribing, impeding, threatening or injuring by any means any officer of the court, juror, witness or duly authorized investigator.

16. Offenses against the laws relating to the escape of persons.

17. Any act or omission intended or that is likely to:

(a) endanger the safety of an aircraft in flight or of any person on board such an aircraft, or

(b) destroy or render any aircraft incapable of flight.

18. Offenses against the laws relating to unlawful seizure or exercise of control of an aircraft.

19. Offenses against the laws relating to piracy, mutiny, or revolt on board a vessel.

20. Offenses against the laws relating to civil disorder and riot.

21. Offenses against the laws relating to willful damage to property.

22. Offenses against the laws relating to bankruptcy.

23. Offenses against the laws relating to usury.

24. Offenses against laws relating to securities and commodities.

25. Offenses against the laws relating to the traffic in, production, manufacture, or importation of narcotics, dangerous drugs, controlled or restricted substances, including their derivatives and similar synthetic preparations.

26. Offenses against the laws relating to firearms and other weapons, ammunition, explosives, incendiary devices or nuclear material.

27. Offenses relating to willful evasion of taxes or duties.

28. Offenses against the laws relating to importation, exportation or transit of goods, articles, or merchandise.

29. Offenses against the laws relating to competition and trade practices.

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Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of The Compact of Free Association

Agreed Minute

Title Three, Article I, Judicial Assistance, paragraph 6: In the Federated States of Micronesia the term "any legal privilege" shall include any legal or constitutional right or privilege.

Article XVI, Relationship with Other Agreements: Article XVI of this Agreement makes it clear that "United States personnel" (within the meaning of the Status of Forces Agreement [SOFA]) who commit offenses while in the Marshall Islands or the Federated States of Micronesia, shall be subject to the applicable provisions of the SOFA. If a person who comes within the SOFA definition of "United States personnel", other than a member of the force, returns to the United States and is no longer subject to the SOFA, the provisions of the extradition agreement would apply. If, however, the offender is a member of the force at the time of the extradition request, it is contemplated that the Executive Authority would not exercise its authority to extradite the offender, but would refer the case to the military authorities for disposition in accordance with the provisions of the SOFA.

Article XVI of the Extradition Agreement is without prejudice to the provisions of the SOFA which otherwise allows transfer of members of the force to the Marshall Islands or the Federated States of Micronesia.

DONE AT Honolulu, Hawaii, THIS 30th DAY

OF May, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 30th DAY

OF May, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT

OF

THE MARSHALL ISLANDS

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE FEDERATED STATES OF MICRONESIA

FEDERAL PROGRAMS AND SERVICES
AGREEMENT

Concluded Pursuant to
Article II of Title Two and Section 232 of
The Compact of Free Association

Federal Programs and Services Agreement Concluded Pursuant to Sections 221, 224, 225 and 232 of The Compact of Free Association

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Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of The Compact of Free Association

This Agreement is concluded by the Signatory Governments and sets forth their respective authority and responsibility for the provision of the services and related programs authorized by Article II of Title Two and Section 232 of the Compact of Free Association (the Compact).

Article I

Definitions

Article I

Definitions

1. The Definition of Terms set forth in Article VI of Title Four of the Compact is incorporated into this Agreement.

2. For the purposes of this Agreement only, the following terms shall have the following meanings:

(a) "Federal agency" refers to each authority of the Government of the United States which provides services and related programs in accordance with Article II of Title Two and Section 232 of the Compact, including any successor agency or agencies, and does not include:

(1) The Armed Forces of the United States as defined in Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact; or

(2) The Resident Representative officer and office established by the Government of the United States pursuant to Article V of Title One of the Compact.

(b) "United States contractors" means the legal entities, including corporations and natural persons, present in the Marshall Islands or the Federated States of Micronesia for the purpose of executing their contracts with the Government of the United States, or subcontracts of such contracts, in support of the Federal agencies acting pursuant to Article II of Title Two and Section 232 of the Compact and who are designated as such by the Government of the United States. The term "United States Contractors" does not include local contractors.

(c) "Local Contractors" means the legal entities, including corporations and natural persons organized under the laws of and who are in, the Marshall Islands or the Federated States of Micronesia, respectively.

(d) "United States personnel" means anyone who is included in any of the following categories:

(1) "civilian employees" -- all Federal agency personnel, notwithstanding their citizenship or nationality, except local hire personnel, who are in the Marshall Islands or the Federated States of Micronesia, and who are in the employ of or serving with a Federal agency and who are employed in any of the activities of such Federal agency.

(2) "contractor personnel" -- natural persons, who are United States citizens or nationals or United States permanent resident aliens, except local hire personnel, who are in the Marshall Islands or the Federated States of Micronesia, and who are United States contractors or officers or employees of United States contractors; or

(3) "dependents" -- the spouses and children of persons included in paragraphs 2(d)(1) or 2(d)(2) and, while members of the household of such persons, other relatives or wards of such persons or their spouses.

(e) "third country contractor personnel" means natural persons other than United States personnel or local hire personnel who are in the Marshall Islands or the Federated States of Micronesia and who are United States contractors or officers or employees of United States contractors or dependents of any of them.

(f) "local hire personnel" means citizens and nationals of the Marshall Islands or the Federated States of Micronesia who are employed in the Marshall Islands or the Federated States of Micronesia, respectively, by Federal agencies or United States contractors.

(g) "rawinsonde" means a method of upper-air observation consisting of an evaluation of the wind speed and direction, temperature, pressure, and relative humidity aloft by means of a balloon-borne radiosonde tracked by a radar or radio direction-finder. If radar is used for tracking, a radar target is also attached to the balloon. Thus, it is a radiosonde observation combined with a type of rawin observation.

Legal Status of Programs and Related Services, Federal Agencies, United States Contractors and United States Personnel

Article II

Legal Status of Programs and Related Services, Federal Agencies, United States Contractors and United States Personnel

1. The provision by the Government of the United States of any programs and related services to the Government of the Marshall Islands or the Federated States of Micronesia, as may be appropriated by the United States Congress, pursuant to this Agreement shall be contingent upon compliance by the Government of the Marshall Islands or the Federated States of Micronesia with the provisions of Sections 173 and 225 of the Compact. The Government of the United States shall, on an annual basis, seek the appropriation of such funds.

2. (a) The Government of the United States, Federal agencies and United States contractors and their respective assets, income and other property shall be exempt from all direct taxes and shall be exempt from all customs duties on the import and export of articles required for the official functions and personal use of United States personnel and official offices established in the Marshall Islands or the Federated States of Micronesia by a Federal agency. The Government of the United States and Federal Agencies shall be exempt from all customs restrictions, inspection and examination on such import and export.

(b) Income received by United States personnel for services with or employment by the Federal agencies or United States contractors, or from sources outside the territory of the Government concerned, are exempt from any tax, fee or other charge imposed by the Government of the Marshall Islands or the Federated States of Micronesia, except that United States contractor personnel and dependents who are also United States contractor personnel are not exempt from a personal income tax generally applicable within the Marshall Islands or the Federated States of Micronesia up to a level of five percent of their annual income derived from their employment in the Marshall Islands or the Federated States of Micronesia, respectively, by United States contractors.

3. United States personnel may import into and export from the Marshall Islands or the Federated States of Micronesia furniture, household goods and personal effects for their private use, including all forms of privately owned land, sea and air transportation, free from customs duties, license requirements and other import and export taxes, fees or charges.

4. Animals and plants, including fruits and vegetables, imported by United States personnel, subject to the provisions of this Article, and by third country contractor personnel shall be subject to the laws and regulations of the Marshall Islands or the Federated States of Micronesia, respectively, governing the inspection of and restrictions on such importations.

5. The Federal agencies, in cooperation with the Government concerned, shall take appropriate measures, including inspection, to prevent importation of contraband and to prevent abuse of privileges granted to United States personnel under this Article.

6. Should property imported into the Marshall Islands or the Federated States of Micronesia under the exemptions provided by this Article subsequently be transferred to a person not entitled to such exemptions, such person shall be liable for import duties and other charges according to the laws and regulations of the Government concerned.

7. Civilian employees shall have the privileges and immunities of a resident representative as set forth in Sections 152(b) and (e) of the Compact, and immunity from civil and criminal process and liability relating to or resulting from any wrongful act or omission done within the scope and in the performance of official duty, except insofar as such immunity is expressly waived by the Government of the United States. Civilian employees who have been arrested in connection with an offense not related to the performance of their official duties, shall be released to the custody of the resident representative or the head of their agency in the Marshall Islands or the Federated States of Micronesia, unless in the case of a grave crime a competent judicial authority decides that such civilian employees shall remain subject to detention by the local authorities.

8. (a) The authorities of the Federal agencies shall pay just and reasonable compensation in settlement of meritorious, noncontractual claims arising out of the wrongful acts or omissions occuring subsequent to the effective date of this Agreement in the Marshall Islands or the Federated States of Micronesia of the Federal agencies themselves, or of their civilian and local hire personnel, if such act or omission occurred within the scope and in the performance of official duty of the civilian and local hire personnel. All such claims shall be processed and settled by the respective Federal agencies in accordance with the laws and regulations of the United States. Any such claims which cannot be settled as provided for in this paragraph, and which are espoused by the Government concerned, shall be disposed of pursuant to the provisions of Article II of Title Four of the Compact.

(b) Contractual claims against the Federal agencies shall be settled in accordance with the disputes clause of the contract if any, and the laws of the United States relating to the resolution of such disputes. In the absence of such clause, the claims shall be presented to the appropriate United States authority; if no settlement is reached, the appropriate court of the United States shall have jurisdiction over such claims.

(c) The Government concerned shall present claims arising under this Article to the United States Resident Representative who shall forward such claims to the Competent Authority of the Federal Agency concerned.

9. Except as otherwise expressly provided in this Agreement, any dispute arising under this Agreement shall be disposed of exclusively pursuant to the provisions of Article II of Title Four of the Compact.

(a) The Federal agencies shall not be subject to the jurisdiction of the courts of the Government of the Marshall Islands or the Federated States of Micronesia under Article VII of Title One of the Compact for any claim under paragraph 8 of this Article arising in the Marshall Islands or the Federated States of Micronesia from the acts or ommissions of the Federal Agencies occurring subsequent to the effective date of the Compact. All such claims shall be processed and settled exclusively in accordance with this Article.

(b) Any judgment presented for certification to the United States Court of Appeals for the Federal Circuit pursuant to Section 174 of the Compact of Free Association shall be deemed manifestly erroneous as to law if the claim upon which such judgment is based would have been barred by the statute of limitations if such claim had been brought in a court of the United States.

10. For the purposes of carrying out the provisions of this Agreement, Competent Authorities shall be designated by each of the Signatory Governments. The Competent Authorities of the Government of the United States and the Competent Authorities of the Marshall Islands and the Federated States of Micronesia may communicate directly with each other. In the case of the Government of the United States the Competent Authority shall be the head of or designee of the Federal agency concerned who shall be designated in writing to the Government concerned.

11. The Government of the Marshall Islands or the Federated States of Micronesia shall accept as valid, without a test or fee, the operator's permit or license or military driving permit issued to United States personnel or third country contractor personnel by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

12. Official vehicles of the Federal Agencies, vehicles owned or operated by United States contractors, and privately owned vehicles of United States personnel shall be identified by individual markings or license plates issued by the Government of the United States, the Governments of the States of the United States of America, its Territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands. However, the Government of the United States may use local individual markings or license plates in Palau and the Federated States of Micronesia.

(a) Official vehicles shall not be subject to the registration or safety inspection laws of the Government of the Marshall Islands or the Federated States of Micronesia.

(b) The Armed Forces of the United States may register vehicles of United States contractors and United States personnel which are not official vehicles, and may inspect such vehicles applying safety standards of general applicability in the Marshall Islands or the Federated States of Micronesia, respectively. Vehicles so registered and inspected shall be exempt from the registration and safety inspection laws of the Government of the Marshall Islands or the Federated States of Micronesia, respectively.

13. For purposes of this Article the term "vehicles" includes all forms of land, sea and air transportation.

14. Any reference in this Agreement to a provision of the law of the United States constitutes the incorporation of the language of such provision into this Agreement as such provision is in force on the effective date of this Agreement or as it may be amended thereafter on a non-discriminatory basis according to the constitutional process of the United States.

15. The Government of the United States may use local telecommunication systems and, in determining its uses of such systems, shall take into consideration the cost and security of such systems and the availability of alternate United States systems. The Government of the United States shall encourage the use of local telecommunication systems by United States personnel for non-official purposes. To the extent that the Government of the Marshall Islands or the Federated States of Micronesia establishes telecommunications systems compatible with existing United States Government installations, the Government of the United States and the Government concerned may enter into negotiations for a use arrangement which includes normal billing procedures.

Article III

Employment of Labor

Article III

Employment of Labor

1. In providing services and related programs in the Marshall Islands or the Federated States of Micronesia pursuant to Section 221 of the Compact, the Federal agencies, United States contractors and local contractors:

(a) may employ persons possessing requisite skills and qualifications. Employment preference shall be given, without discrimination, to citizens, nationals and permanent resident aliens of the Marshall Islands or the Federated States of Micronesia, in their respective jurisdictions, and of the United States. In the employment of such persons pursuant to the preferences set forth in this paragraph, the Federal Agencies and the United States contractors shall exercise their best efforts to employ persons present in the Marshall Islands or the Federated States of Micronesia, respectively.

(b) shall utilize without discrimination, consistent with the laws and regulations of the United States, qualified local contractors and contractors which are legal entities of the United States. The Federal Agencies and United States contractors shall ensure that the specifications and instructions for contract bids shall permit such free and full competition as is consistent with the procurement of the goods and services needed by the Government of the United States.

2. Prior to the employment of third country personnel or the utilization of third country contractors, the Government of the United States shall notify the Government concerned and shall consult, if requested, with that Government as to the availability of qualified local hire personnel or qualified local contractors.

3. The laws and regulations of the Marshall Islands or the Federated States of Micronesia shall not apply to the terms and conditions of employment of United States personnel by Federal agencies, or United States contractors. The Government of the Marshall Islands or the Federated States of Micronesia shall not require United States personnel, third country contractor personnel or United States contractors to obtain any license, permit or certificate, or to undergo any examination, in connection with the performance of their duties on behalf of Federal agencies.

4. In the employment of local hire personnel by the Federal agencies and United States contractors, the Government of the United States shall adopt measures consistent with the standards of local labor laws to the extent they are compatible with laws, regulations and operational requirements of the United States.

Article IV

Entry and Departure

Article IV

Entry and Departure

1. The Government of the United States may bring into the Marshall Islands and the Federated States of Micronesia:

(a) United States personnel and United States contractors; and

(b) Third country contractor personnel in a manner consistent with those laws of the Marshall Islands or the Federated States of Micronesia, respectively, relating to the exclusion of individual, undesirable aliens and taking into account paragraph 5 of this Article and Article III of this Agreement.

2. United States personnel shall be exempt from the passport and visa laws and regulations of the Marshall Islands and the Federated States of Micronesia. Taking into account paragraph 1(b) of this Article and Article III of this Agreement applications of third country contractor personnel for visas shall be granted or denied expeditiously. All such personnel shall comply with medical immunization requirements of the Marshall Islands and the Federated States of Micronesia, respectively.

(a) No United States personnel or third country contractor personnel shall acquire any right to permanent residence or domicile solely as a result of their being United States personnel or third country contractor personnel.

(b) United States personnel shall be exempt from laws and regulations of the Marshall Islands and the Federated States of Micronesia on the entry, departure, registration and control of aliens and foreign agents.

3. Upon entry into or departure from the Marshall Islands or the Federated States of Micronesia, United States personnel shall have in their possession official orders or documents certifying the status of the individual or group. Such orders or documents shall be shown on request to the appropriate authorities of the Government concerned.

4. For the purpose of their identification while in the Marshall Islands or the Federated States of Micronesia, United States personnel ten years of age or older shall have in their possession a personal identification card authorized by the Government of the United States which shall show the name, date of birth, status, and photograph of the bearer. Such card shall be shown on request to the appropriate authorities of the Government concerned.

5. If the Government of the Marshall Islands or the Federated States of Micronesia requests the removal from the Marshall Islands or the Federated States of Micronesia, respectively, of any United States personnel or any third country contractor personnel, the request shall be directed to the United States resident

representative, who shall consult with the Government concerned on the appropriate action to be taken regarding removal. If the Government of the United States and the other Signatory Government concerned so determine, the person whose removal has been requested shall immediately become subject to the jurisdiction of the other Signatory Government concerned in accordance with its laws.

6. Transportation costs attendant to the departure and removal of third country contractor personnel shall be the responsibility of the Government of the United States.

Implementation of Section 225 of the Compact and Title to Property

Article V

Implementation of Section 225 of the Compact and Title to Property

1. Specific arrangements for the establishment and use by the Government of the United States of facilities or areas for Federal agencies in the Marshall Islands or the Federated States of Micronesia shall be set forth in Exchanges of Notes, which, when signed, shall be annexed to this Agreement as Annex A.

2. If, in the exercise of its authority and responsibility under Section 221 of the Compact, the Government of the United States requires the use of facilities or areas in the Marshall Islands or the Federated States of Micronesia in addition to or in place of those for which specific arrangements are concluded pursuant to the exchanges of notes included in Annex A of this Agreement, it may request the Government concerned to satisfy those requirements through leases or other arrangements. That Government shall sympathetically consider any such request and shall establish suitable procedures and provide a prompt response to the Government of the United States.

3. If the Government of the Marshall Islands or the Federated States of Micronesia requires for some other purpose the use of facilities or areas which have been provided the Government of the United States pursuant to this Agreement, the Government concerned shall request the Government of the United States to accept equivalent facilities or areas. The Government of the United States shall sympathetically consider any such request and provide a prompt response. Any pertinent agreement shall be effected in accordance with paragraph 2 of Article XIII of this Agreement by an amendment to the Exchanges of Notes included in Annex A of this Agreement.

4. All property for which the Government of the United States determines that it has a continuing requirement in order to carry out its authority and responsibility pursuant to Section 221 of the Compact, title to which therefore remains vested in the Government of the United States pursuant to Section 234 of the Compact, is set forth in the separate agreement in implementation of Section 234 of the Compact.

5. Title to improvements to real property or to any item of equipment or other personal property hereinafter furnished, acquired, supplied, constructed or purchased by or with funds provided by the Government of the United States in connection with the programs and related services set forth in this Agreement is vested in the Government of the United States, except where expressly sold or otherwise conveyed.

6. Upon relinquishing facilities or areas designated for Federal agency use, or a portion thereof, whether at the termination of a specific service and its related programs or at an earlier date,

the Government of the United States shall not be obligated to restore any such site or portion thereof to its former condition, or to make compensation in lieu of such restoration. The Signatory Governments may otherwise agree, based on considerations including the existence of conditions substantially or materially hazardous to human life, health and safety.

7. The Government of the United States has the right to remove any installations or improvements which it has constructed on an area designated for Federal agency use. If any installations or improvements which were constructed at the expense of the Government of the United States are to be left behind after relinquishing facilities or areas designated for Federal agency use, or a portion thereof, the Government of the Marshall Islands or the Federated States of Micronesia and the Government of the United States shall consult to determine the residual value, including scrap value, if any, of any such installations or improvements to the Government concerned and to agree upon an appropriate method of compensating the Government of the United States for such residual value.

8. Except as may be otherwise expressly agreed, the Government of the United States, Federal agencies and United States contractors shall retain title to equipment, materials and other movable property brought into or acquired by them in the Marshall Islands or the Federated States of Micronesia and may remove such property at any time from the Marshall Islands or the Federated States of Micronesia, or dispose of it therein.

Article VI

Postal Services and Related Programs

Article VI

Postal Services and Related Programs

1. The Government of the Marshall Islands or the Federated States of Micronesia shall assume responsibility pursuant to its laws and regulations for all local postal services.

2. The Government of the Marshall Islands or the Federated States of Micronesia shall be responsible for all its postal staff, facilities and equipment.

3. From the effective date of this Agreement until its first anniversary, salaries for United States Postal Service (USPS) employee positions in the Marshall Islands and the Federated States of Micronesia shall be paid by the USPS, without reimbursement by the Government of the Marshall Islands or the Federated States of Micronesia, to the extent that employee costs remain at the level the USPS would have expended to maintain the level of service available in the Marshall Islands and the Federated States of Micronesia in the year prior to the effective date of this Agreement.

4. Prior to the first anniversary of the effective date of this Agreement, any postal employee serving in the Marshall Islands and the Federated States of Micronesia who was a USPS employee on the effective date of this Agreement shall have the right to transfer to a position of comparable pay level at a facility outside the Marshall Islands and the Federated States of Micronesia, as follows:

(a) the employee may choose to transfer to a facility designated by the USPS with reimbursement of moving expenses as provided in the USPS Methods Handbook M-9, "Travel"; or

(b) the employee may choose to transfer to an available position designated by the USPS in a location chosen by the employee at the employee's own expense.

5. Six months prior to the first anniversary of the effective date of this Agreement, the Governments of the Marshall Islands and the Federated States of Micronesia shall offer comparable positions, as determined by each such Government, to all employees referred to in paragraph 4 of this Article serving in post offices located in the Marshall Islands or the Federated States of Micronesia, respectively, who do not elect to transfer to another location pursuant to paragraph 4 of this Article. Such employees shall notify the Government concerned, within thirty days after such offer, whether they intend to accept such position. Such offer and the employee's election in response thereto shall not alter the employee's status under paragraph 3 of this Article prior to the first anniversary of the effective date of this Agreement.

6. On the effective date of this Agreement the USPS shall, without compensation, turn over to the Government of the Marshall Islands or the Federated States of Micronesia all USPS facilities and equipment, in good repair and workable condition, in use in the Marshall Islands or the Federated States of Micronesia, respectively, as of that date.

7. The Governments of the Marshall Islands and the Federated States of Micronesia shall issue postage stamps and other prescribed postal indicia which shall be used for prepayment of postage rates and other postal charges on all mail originating in its territory, except for mail sent through the military postal system provided for in Article VII of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association.

8. The USPS shall provide the following services for the Marshall Islands and the Federated States of Micronesia for a period of fifteen years commencing on the effective date of this Agreement without compensation by the Government of the Marshall Islands or the Federated States of Micronesia; provided that the provision of such services shall be based upon reimbursement of the USPS from funds appropriated by the United States Congress in implementation of this Agreement:

(a) conveyance of mail, at levels of service, including classes and special services, equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Agreement, to and from the designated exchange offices in the Marshall Islands and the Federated States of Micronesia; and

(b) dispatch, documentation, statistical, accounting, and settlement operations in connection with the international exchange of such mail.

9. The Governments of the Marshall Islands and the Federated States of Micronesia shall undertake to protect the postal services provided by the Government of the United States from exploitation for the monetary gain of private or government organizations or of individuals or of commercial enterprises, including the posting of bulk mail, books, catalogues, goods or materials. The Government of the United States shall provide mail service pursuant to this Agreement with the understanding that the volume of mail may increase in proportion to population increases and ordinary growth of local commercial enterprise. Should an increase in the volume of mail of twenty percent or more within a twelve-month period be anticipated or experienced by the Government of the Marshall Islands or the Federated States of Micronesia, the Government concerned shall enter into a separate agreement with the Government of the United States which shall establish the amount of reimbursement to be paid to the Government of the United States for the volume in excess of twenty percent.

10. The Governments of the Marshall Islands and the Federated States of Micronesia shall ensure that all mail turned over to the USPS for conveyance to the United States or other countries complies with the postal conventions to which the United States adheres and with the postal laws and regulations of the United States.

11. Pursuant to this Agreement, mail shall be exchanged at the exchange offices designated in this paragraph and outgoing mail from the Marshall Islands and the Federated States of Micronesia shall be merged with United States mail for conveyance to the United States or to other countries. Such outgoing mail from the Marshall Islands and the Federated States of Micronesia shall be treated as though it were mail from the United States for dispatch, documentation, statistical, accounting and settlement operations with other countries. The six designated exchange offices shall be located in the Marshall Islands, at Majuro and Ebeye, and the Federated States of Micronesia, at Kosrae, Ponape, Truk and Yap.

12. Until the effective date of the Compact, United States domestic postal rates shall apply to mail exchanged between addresses in the Marshall Islands and the Federated States of Micronesia and between those addresses and addresses in the United States. After the effective date of the Compact, the USPS may establish cost-related rates for mail from the United States to the Marshall Islands or the Federated States of Micronesia. Such United States-established rates shall establish the ceiling and United States domestic rates shall establish the floor for postage rates for mail from the Marshall Islands or the Federated States of Micronesia to the United States and to the Marshall Islands and the Federated States of Micronesia. International postal rates applicable in the United States shall apply to mail from the Marshall Islands and the Federated States of Micronesia addressed to other countries.

13. The Government of the Marshall Islands or the Federated States of Micronesia may determine postal rates for internal mail to local addresses within the Marshall Islands or the Federated States of Micronesia, respectively.

14. Revenues derived from the sale of stamps issued by the Government of the Marshall Islands or the Federated States of Micronesia for postal services or for philatelic purposes shall be retained by the Governments which issued such stamps. The Governments of the Marshall Islands and the Federated States of Micronesia agree to provide, pursuant to their constitutional processes, adequate funding for the operation of their postal services in a manner which will allow the USPS to perform its responsibilities under this Agreement in an efficient and economical manner, with any disputes arising under this paragraph to be resolved pursuant to Article II of Title Four of the Compact.

15. Liability for the loss of a registered or insured item shall rest with the Government which, having received it without comment, cannot prove either delivery to the addressee or correct transfer to another administration. Pursuant to paragraph 19 of this Article, the Government of the United States shall, upon request, assist the Government of the Marshall Islands or the Federated States of Micronesia in developing local practices and procedures to fulfill the requirements of this paragraph.

16. The Governments of the Marshall Islands and the Federated States of Micronesia shall not impose any terminal dues or other charges on the USPS or the postal administrations of any other government for mail conveyed to the Marshall Islands or the Federated States of Micronesia by the USPS pursuant to this Agreement.

17. Postal Money Orders shall be issued in the Marshall Islands and the Federated States of Micronesia on USPS forms and in accordance with USPS regulations. All amounts collected in connection with such issuance, including the Postal Money Order fees, shall be remitted to the USPS. Postal Money Orders paid in the Marshall Islands and the Federated States of Micronesia shall be deposited for the credit of each such Government in accordance with prescribed procedures. Such Postal Money Orders shall follow the normal bank clearance process for final payment by the USPS. The USPS shall be responsible for providing all necessary forms and for reconciling the Postal Money Order accounts. The Government of the Marshall Islands or the Federated States of Micronesia may terminate the category of service set forth in this paragraph in the same manner as this Article may be terminated in accordance with Article XII of this Agreement.

18. The USPS and the Governments of the Marshall Islands and the Federated States of Micronesia shall issue stamps to commemorate the inauguration of the new political status of free association between the United States and the Marshall Islands and the Federated States of Micronesia. Each Government shall retain all revenues from the sale of the stamps it issues.

19. Pursuant to this Agreement the USPS shall provide, without compensation, such technical assistance, including technical assistance to provide for the orderly transfer of postal responsibilities, and employee training as the USPS and appropriate officials authorized to act on behalf of the Governments of the Marshall Islands and the Federated States of Micronesia mutually agree to be necessary and appropriate. The USPS shall provide expedited training at no cost to the Marshall Islands or the Federated States of Micronesia for the replacement of employees who transfer pursuant to paragraph 4 of this Article so that the Governments of the Marshall Islands and the Federated States of Micronesia can continue to execute properly their postal responsibilities pursuant to this Agreement. In addition, appropriate officials of the Governments of the Marshall Islands and the Federated States of Micronesia shall consult with the USPS with regard to fiscal planning and postal administration for the purpose of promoting

economical and efficient postal services and programs.

20. The obligations of the Governments signatory to this Agreement under this Article shall terminate fifteen years after the effective date of this Agreement. Prior to termination of this Agreement, the USPS and the Governments of the Marshall Islands and the Federated States of Micronesia shall enter into bilateral arrangements to establish mutually acceptable terms and conditions for the exchange of mail between the United States and the Marshall Islands and the Federated States of Micronesia.

21. As mutually agreed, the United States shall assist the Governments of the Marshall Islands and the Federated States of Micronesia in acquiring membership in relevant international or regional postal organizations.

22. If, prior to the effective date of this Agreement, the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia have entered into a separate agreement for interim implementation of the postal services and programs provided for in this Agreement, the obligations of the Signatory Governments provided for in paragraphs 3, 4, 5, 6 and 19 of this Article shall be considered fully executed or shall be diminished to the extent such obligations have been discharged under such interim agreement prior to the effective date of this Agreement.

Article VII

Weather Services and Related Programs

Article VII

Weather Services and Related Programs

1. The National Weather Service of the United States, in cooperation with the United States Navy, shall provide weather services and related programs in the Marshall Islands and the Federated States of Micronesia at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of the Compact.

2. These services and related programs shall be provided pursuant to:

(a) the provisions of 15 U.S.C. 311-329; the International Aviation Facilities Act 49 U.S.C. 1151 *et seq.*; and section 803 of the Federal Aviation Act of 1958 49 U.S.C. 1463;

(b) other provisions of the laws of the United States to the extent they expressly apply to the National Weather Service;

(c) weather treaties and other international weather agreements to which the United States is a party;

(d) applicable Executive Orders of the President of the United States; and

(e) implementing National Weather Service regulations.

3. The Government of the Marshall Islands or the Federated States of Micronesia may issue weather forecasts under such terms as may be mutually agreed with the National Weather Service. The Government of the United States shall continue to provide public and aviation weather forecasts and severe weather warnings.

4. The Government of the Marshall Islands or the Federated States of Micronesia may take such transitional actions as may be necessary to prepare for the establishment and support of its own weather service. Such transitional actions may be initiated at any time prior to termination of the Compact pursuant to Article IV of Title Four of the Compact or prior to termination of this Article pursuant to Article XII of this Agreement. The National Weather Service shall provide advice in the development of the weather service of the Marshall Islands or the Federated States of Micronesia at the request of the Government concerned.

5. The National Weather Service shall provide weather services and related programs pursuant to this Article, in part, through weather service offices established in the Marshall Islands or the Federated States of Micronesia.

(a) As of the effective date of this Agreement all employees at Weather Service offices in the Marshall Islands or the Federated States of Micronesia shall be employed in like positions by the Government of the Marshall Islands or the Federated States of Micronesia, respectively.

(b) The National Weather Service and the Government of the Marshall Islands or the Federated States of Micronesia shall in an Exchange of Notes set forth the duties and qualifications of employees and provide procedures to reimburse the Government concerned for materials and for salaries and other expenses incurred in the performance of these duties; and

(c) The Government of the United States shall reimburse the Government concerned for costs incurred under this paragraph.

6. As required to implement the services and related programs provided pursuant to this Article or to meet technological change, the National Weather Service shall train employees of the Government of the Marshall Islands or the Federated States of Micronesia assigned to weather stations. The Government of the United States shall reimburse the Government concerned for costs incurred for training approved by the National Weather Service.

7. The National Weather Service shall inspect weather stations to assure the quality of meteorological operations.

8. The National Weather Service shall provide and maintain Weather Service offices pursuant to Article V of this Agreement, including meteorological observatories and other buildings, and shall maintain and replace meteorological and other equipment of the National Weather Service.

9. The National Weather Service shall provide the supplies required for the operation of its programs and related services.

10. Pursuant to Article III, Title One of the Compact, the radio operating frequencies in the bands 401-406 MHz and 1660-1700 MHz shall be protected by the Government of the Marshall Islands or the Federated States of Micronesia in order to ensure their interference-free use for rawinsonde observations, in accordance with the provisions of Radio Regulations annexed to the International Telecommunication Convention (ISBN 92-61-0081-5). Other radio operating frequencies may be substituted for those set forth in this paragraph by agreement of the Governments concerned.

11. The Governments of the Marshall Islands, and the Federated States of Micronesia, in order to assure that they receive the most current meteorological information and that such information from them will be available on a global basis, shall provide continuing access to its telecommunications services, for meteorological traffic to and from Guam, or other points as may be designated by the Government of the United States.

12. The National Weather Service and the Federal Aviation Administration shall provide weather services and related programs in Kosrae, Federated States of Micronesia, to the extent that such services and related programs are determined by the Federal Aviation Administration to meet requirements for safe and efficient operation of United States air carriers engaged in domestic air service in Kosrae. The National Weather Service shall train employees of the Government of the Federated States of Micronesia assigned to Kosrae to enable such employees to provide weather reporting services required by the Federal Aviation Administration pursuant to this paragraph. The National Weather Service shall not be responsible for providing reimbursement to the Federated States of Micronesia for personnel costs, including salaries and expenses, incident to the provision of weather services in Kosrae pursuant to this paragraph.

Article VIII

Civil Aviation Safety Services and Related Programs

Article VIII

Civil Aviation Safety Services and Related Programs

1. The Government of the United States and the Governments of the Marshall Islands, and the Federated States of Micronesia agree that the Federal Aviation Administration (FAA) shall provide aviation safety services in the Marshall Islands, and the Federated States of Micronesia in accordance with this Article with the common desire to:

(a) promote the common interests of the Government of the United States and the Governments of the Marshall Islands, and the Federated States of Micronesia in fostering safe and efficient air service; and

(b) facilitate the orderly establishment of aviation safety statutory and regulatory regimes and aviation safety authorities by the Governments of the Marshall Islands and the Federated States of Micronesia.

2. On behalf of the Governments of the Marshall Islands and the Federated States of Micronesia, the Government of the United States shall provide aviation safety services in the Marshall Islands, and the Federated States of Micronesia at levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Agreement as follows:

(a) en route air traffic services within that air space including the Marshall Islands and the Federated States of Micronesia for which the Government of the United States has responsibility under the appropriate regional air navigation plan approved by the International Civil Aviation Organization (ICAO);

(b) flight inspection and ground certification of nondirectional beacons and distance-measuring equipment, and periodic review and evaluation of the need for, and the maintenance, modification, improvement or replacement of, nondirectional beacons, distance-measuring equipment and related support systems in the Marshall Islands, or the Federated States of Micronesia; and

(c) development and updating of instrument approach procedures, standard instrument departure procedures and standard terminal arrival routes for airports in the Marshall Islands, or the Federated States of Micronesia, and issuance of appropriate Notices to Airmen.

3. Each of the Governments of the Marshall Islands and the Federated States of Micronesia, pursuant to Section 471(b) of the Compact, shall take all necessary steps to ensure the conformity of its laws, regulations and administrative procedures with the provisions of this Article. The aviation safety services specified under

paragraph 2 of this Article shall be provided exclusively pursuant to treaties and other international agreements relating to aviation safety to which the United States is a party and the laws and regulations of the United States. The Governments of the Marshall Islands and the Federated States of Micronesia:

(a) consistent with Resolution A23-11, Appendix N, Part II, Air Navigation of ICAO Assembly Resolutions in force as of October 7, 1980, U.N. Doc. 9349, assign and delegate to the Government of the United States sole authority and responsibility for providing aviation safety services as specified in paragraph 2(a) of this Article until such time as those responsibilities are transferred at the request of the Government of the Marshall Islands or the Federated States of Micronesia, and with the approval of the ICAO, from the Government of the United States to the Governments of the Marshall Islands and the Federated States of Micronesia; and

(b) grant unobstructed access by FAA personnel and FAA equipment to the property on which the navigational and landing aids set forth in paragraph 2(b) of this Article are located.

4. The FAA shall provide technical assistance to the Government of the Marshall Islands or the Federated States of Micronesia to develop civil aviation safety authorities and to assist the government concerned in the administration of safety certification and related aviation safety programs. Such technical assistance shall be provided pursuant to implementing agreements to be negotiated from time to time between the Government of the United States and the Government concerned. The FAA shall provide such technical assistance in accordance with the provisions of the Federal Aviation Act of 1958, 49 U.S.C. 1301 et seq. and the International Aviation Facilities Act, 49 U.S.C. 1151 et seq. The technical assistance provided by the FAA includes:

(a) continuing development of aviation safety statutes, regulations and aviation safety authorities;

(b) training, in the United States, of personnel designated by the Government of the Marshall Islands or the Federated States of Micronesia, respectively; and

(c) the stationing of FAA personnel in the Marshall Islands or the Federated States of Micronesia to provide continuing advice and guidance to aviation safety authorities at the request of the Government concerned. Such advice and guidance may include assistance required for certification by the Government of the Marshall Islands or the Federated States of Micronesia of airmen, aircraft, airports and air agencies, as the term "air agencies" is used in 49 U.S.C. 1427.

5. Pursuant to Article II, Title One, of the Compact, the Governments of the Marshall Islands, and the Federated States of Micronesia shall protect radio frequency bands allocated in accordance with Article 5 of the Radio Regulations of the International

Telecommunications Union to the aeronautical mobile, mobile, aeronautical fixed, fixed, aeronautical radionavigation, and radionavigation services in accordance with the provisions of Radio Regulations annexed to the International Telecommunication Convention, in order to ensure their use free of interference for these allocated purposes in support of civil aviation.

6. The Governments of the Marshall Islands and the Federated States of Micronesia, in order to ensure that they transmit and receive the most current meteorological information for civil aviation purposes and that such information provided by them shall be available on a global basis, shall provide continuing access to their telecommunications services for meteorological traffic to and from Guam or other points as may be designated by the Government of the United States in consultation with the Government of the Marshall Islands, or the Federated States of Micronesia.

7. The Governments of the Marshall Islands and the Federated States of Micronesia, in order to ensure that they transmit and receive the most current flight movement and airmen information data for civil aviation purposes, and that such information received or provided by them will be available on a global basis, shall provide continuing access to their telecommunications services for flight movement and airmen information traffic to and from Guam or other entry points into the Aeronautical Fixed Service of the International Civil Aviation Organization as may be designated in accordance with the Convention on International Civil Aviation, Annex 10, Volumes 1 and 2, by the Government of the United States in consultation with the Government of the Marshall Islands, or the Federated States of Micronesia.

8. The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall from time to time enter into such agreements as may be necessary to implement subparagraphs (b) and (c) of paragraph 2 of this Article.

Article IX

Civil Aviation
Economic Services and Related Programs

Article IX

Civil Aviation
Economic Services and Related Programs

1. The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree that the following provisions shall apply to the economic regulation of air services of the Marshall Islands and the Federated States of Micronesia.

2. The Governments of the Marshall Islands and the Federated States of Micronesia shall exercise independent economic regulatory jurisdiction over air services to, from and within the Marshall Islands and the Federated States of Micronesia, respectively, which for the purposes of this Agreement are points outside the United States, as the term "United States" is defined in 49 U.S.C. 1301(41).

3. In accordance with Section 124 of the Compact, the Government of the United States, if requested and as mutually agreed, shall negotiate or assist in negotiations for air rights with third countries on behalf of the Government of the Marshall Islands or the Federated States of Micronesia.

4. The Civil Aeronautics Board, upon request, shall provide the following assistance to the Governments of the Marshall Islands and the Federated States of Micronesia:

(a) preparation of statutory and regulatory proposals for the economic regulation of civil aviation;

(b) processing, in Washington, D.C., on behalf of and on the basis of procedures mutually agreed with the Government of the Marshall Islands or the Federated States of Micronesia of applications from any person seeking authority from those governments to engage in air services to, from or within the Marshall Islands or the Federated States of Micronesia, respectively; the power of ultimate disposition of such applications rests with the Government of the Marshall Islands or the Federated States of Micronesia, respectively;

(c) training in the processing of air service applications, in Washington, D.C., of not more than two persons per government annually, and a total of not more than six persons, per government during the life of this Agreement. The designating Government shall be responsible for travel, subsistence and similar expenses of its designated persons while in such training; and

(d) such other assistance as may from time to time be specifically agreed to by the Civil Aeronautics Board.

5. Subject to approval of the Congress of the United States, the Government of the United States shall establish:

(a) Until October 24, 1988 and thereafter if extended by the laws of the United States, eligibility of United States air carriers for subsidy compensation necessary to support essential air transportation, at a level determined by the Civil Aeronautics Board, between the United States and points in the Marshall Islands and the Federated States of Micronesia receiving regularly scheduled air service by Continental Air Micronesia on August 26, 1982, and between such points in the Marshall Islands and the Federated States of Micronesia. In determining the level of essential air transportation, the Civil Aeronautics Board shall take account of all air service, including connecting service, provided to the Marshall Islands and the Federated States of Micronesia, including service by United States, Freely Associated State and all other carriers.

(b) A distinct classification of foreign air carrier, as the term "foreign air carrier" is defined in 49 U.S.C. 1301(22), to be known as "Freely Associated State Air Carrier." This classification shall apply exclusively to a carrier which:

(1) is organized under the laws of the Marshall Islands, the Federated States of Micronesia or the United States; and

(2) has consent to such classification from the Government of the Marshall Islands or the Federated States of Micronesia, concerned, and consent to such classification from the Government of the United States pursuant to standards adopted by the Government of the United States for such classification.

(c) Authority for the Civil Aeronautics Board to authorize Freely Associated States Air Carriers to carry local traffic between Guam, the Commonwealth of the Northern Mariana Islands, and Honolulu, and within the Commonwealth of the Northern Mariana Islands.

(d) Eligibility of Freely Associated State Air Carriers to receive subsidy compensation at a level determined by the Board in accordance with paragraph 5(a) of this Article either if no United States air carrier is available to provide the essential air transportation or if the subsidy required for the provision of essential air transportation by a Freely Associated State Air Carrier would be substantially less than the subsidy which would be paid to an available United States air carrier, provided that unilateral action by the Government of the Marshall Islands or the Federated States of Micronesia under subparagraph 5(b)(2) of this Article shall impose no obligation on the Government of the United States to increase the level of such compensation.

(e) Authority for the Civil Aeronautics Board to require that any United States, Freely Associated State or other carrier which provides service in a subsidized market comply with specified service, rate or fare conditions as may be necessary or desirable to minimize subsidy without undue impairment of the service provided.

(f) Notwithstanding the provisions of 49 U.S.C. 1301(16), Air Micronesia, Inc. shall qualify as a U.S. citizen air carrier, within the meaning of 49 U.S.C. 1301(3), for so long as it continues to be (1) incorporated in the United States or its Territories or possessions, and (2) controlled by citizens of the United States or by a corporation or corporations controlled by citizens of the United States.

(g) Compensation determined by the Civil Aeronautics Board to be necessary to maintain essential air transportation shall be provided from funds specifically appropriated for compensation for service under paragraph 5(a) of this Article.

(h) The Civil Aeronautics Board shall adopt rules to implement the provisions of this paragraph as the Board in its discretion, deems appropriate.

6. Notwithstanding paragraph 2, the Governments of the Marshall Islands and the Federated States of Micronesia shall authorize, without restrictions or impairment, United States air carriers to operate air services to, through, beyond, within and between the Marshall Islands and the Federated States of Micronesia and to establish tariffs applicable to such air services. The Government of the United States shall promptly notify the Government of the Marshall Islands or the Federated States of Micronesia, concerned, of the filing with the Civil Aeronautics Board of any application by a United States air carrier for authority under the laws of the United States to operate air services pursuant to this paragraph. The Governments of the Marshall Islands and the Federated States of Micronesia shall designate competent authorities pursuant to Article II, paragraph 10, of this Agreement for the purpose of receiving such notice. The Government concerned shall be accorded an opportunity to present its views which shall be considered in reaching any decision. Should a formal or informal proceeding be instituted by the Government of the United States in connection with any such application, the Government concerned shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules.

7. The Government of the United States shall sympathetically consider requests by the Government of the Marshall Islands or the Federated States of Micronesia for negotiations of a bilateral air transport agreements between the Government of the United States and the requesting government. The Governments of the Marshall Islands, the Federated States of Micronesia and the United States shall, on the basis of reciprocity, exempt air carriers which are authorized by any other government signatory to this Article to provide air services, from customs duties and taxes imposed by their national authorities, and shall not impose user charges which exceed an equitable proportion of the reasonable costs of providing the facilities, or which are discriminatory.

8. The Government of the Marshall Islands or the Federated States of Micronesia may terminate the operation of any of four categories of economic services described in the subparagraphs of this Article and set forth below. Such partial termination, which may be effected in the same manner as this Article may be terminated in accordance with Article XII of this Agreement, may be exercised only for the categories listed below.

(a) Category 1 -- paragraph 4;

(b) Category 2 -- subparagraphs (a), (d) and (e) of paragraph 5;

(c) Category 3 -- subparagraph (c) of paragraph 5; or

(d) Category 4 -- subparagraphs (a), (b), (c), (d) and (e) of paragraph 5.

If the Government of the Marshall Islands or the Federated States of Micronesia terminates the operation of the subparagraphs in Category 4, that Government may, in accordance with Article XII of this Agreement, also terminate the operation of paragraph 6 of this Article.

If the Government of the Marshall Islands or the Federated States of Micronesia elects to terminate both the operation of the subparagraphs in Category 4 and the operation of paragraph 6 of this Article, the remaining provisions of this Article shall cease to be in effect two years after such termination, unless otherwise agreed by the Government of the Marshall Islands or the Federated States of Micronesia, concerned, and the Government of the United States.

Article X

Federal Emergency Management Agency Services and Related Programs

10-1

Article X

Federal Emergency Management Agency Services and Related Programs

1. The Federal Emergency Management Agency of the United States (FEMA) shall make available disaster assistance in the Marshall Islands or the Federated States of Micronesia at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of the Compact.

2. These disaster assistance services and related programs shall be provided pursuant to:

(a) The provisions of the Disaster Relief Act of 1974, 42 U.S.C. 5121, *et seq.*;

(b) Applicable Executive Orders of the President of the United States; and

(c) Implementing FEMA regulations.

3. Assistance under the Disaster Relief Act of 1974 shall be made available to the Marshall Islands or the Federated States of Micronesia in the same manner as assistance is made available to a "State". Solely for the purpose of applying the Disaster Relief Act of 1974 pursuant to this Article, the Marshall Islands or the Federated States of Micronesia shall be considered included within the definitions of "United States" and "State" as those terms are defined in 42 U.S.C. 5122.

4. The President of the President of the Marshall Islands or the President of the Federated States of Micronesia may request a determination by the President of the United States that an emergency or a major disaster exists in the Marshall Islands or the Federated States of Micronesia, respectively, in accordance with 42 U.S.C. 5141.

(a) In order to expedite such determination, the request shall simultaneously be forwarded to the Regional Director of FEMA in whose region the Marshall Islands or the Federated States of Micronesia are included for the purposes of this Article. The request shall conform with the provisions of the FEMA Disaster Assistance Regulations, 44 C.F.R. 205.

(b) Upon the declaration of an emergency or a major disaster by the President of the United States pursuant to this Section, an Exchange of Notes for each such emergency or major disaster shall be executed by the President of the Government of the Marshall Islands or the Federated States of Micronesia on behalf of such Government and the designated FEMA official on behalf of the Government of the United States. The Exchange of Notes shall set forth the type, extent, terms and conditions of disaster assistance to be provided by the Government of the United States. The Exchange of Notes shall be executed in lieu of the Federal - State Agreement for an emergency or major disaster as required by 44 C.F.R. 205.

5. The President of the Marshall Islands or the President of the Federated States of Micronesia may request a determination by FEMA that fire suppression assistance be provided to the Marshall Islands or the Federated States of Micronesia, respectively, pursuant to 42 U.S.C. 5187.

(a) The request shall conform with Subpart G of the FEMA Disaster Assistance Regulations, 44 C.F.R. 205.

(b) Upon a determination that fire suppression assistance shall be provided, an Exchange of Notes shall be executed by the President of the Government of the Marshall Islands or the Federated States of Micronesia on behalf of such Government and the designated FEMA official on behalf of the Government of the United States. The Exchange of Notes shall set forth the type, extent, terms and conditions of fire suppression assistance to be provided by FEMA. The Exchange of Notes shall be executed in lieu of the Federal - State Agreement for Fire Suppression required by Subpart G of the FEMA Disaster Assistance Regulations.

6. The Government of the Marshall Islands or the Federated States of Micronesia may request an annual grant pursuant to 42 U.S.C. 5131(d). The requesting Government shall use such grants for improving, maintaining and updating the applicable portion of the disaster assistance plan developed by the Trust Territory of the Pacific Islands pursuant to 42 U.S.C. 5131(c) or any other disaster assistance plan of the requesting Government.

7. The Government of the Marshall Islands or the Federated States of Micronesia assumes all rights, obligations and liabilities arising out of services and related programs provided after the effective date of the Compact, including matching fund obligations which may be required by law or for which a commitment has been made by agreement between FEMA and the Government concerned. The Government of the Marshall Islands or the Federated States of Micronesia shall assume administrative responsibilities for procedures required to close out disaster relief efforts begun in connection with any disaster which is "open", as determined by FEMA pursuant to the Disaster Relief Act of 1974, on the effective date of this Compact.

8. To the extent necessary to permit FEMA to fulfill its obligations under this Article following the declaration of a major disaster or emergency, the Government of the Marhall Islands or the Federated States of Micronesia concerned shall, as set forth in the Exchange of Notes referred to in paragraphs 4 and 5 of this Article:

(a) make available to FEMA, at no cost, equipment or facilities in its territory, including facilities necessary for communications:

(b) permit FEMA to operate telecommunications services in its territory;

(c) endeavor to make available radio frequencies for the exclusive use by FEMA;

(d) assist FEMA representatives in inter-island and intra-island movement for the purpose of accomplishing predeclaration damage assessment, post-declaration damage survey and the provision of disaster assistance to include the movement of supplies and equipment; and

(e) in addition to the periodic audit provisions of Section 233 of the Compact, upon request, provide representatives of FEMA and the Controller General of the United States access to any books, documents, papers, and records that pertain to federal funds, equipment and supplies received under this Article, for the purpose of audit and examination.

9. The Governments of the Marshall Islands and the Federated States of Micronesia shall each set forth in a governmental emergency plan the procedures and assignments of responsibility which are required for each Government to prepare for and respond to disasters and to facilitate the delivery of disaster assistance by the Government of the United States.

10. The Government of the Marshall Islands or the Federated States of Micronesia may appeal any determination of the Regional Director related to federal assistance provided under this Article. An appeal shall first be submitted to the Regional Director of FEMA for reconsideration; if such appeal is denied, the Government may submit a second appeal in accordance with FEMA regulations. Action on the second appeal shall be final.

Article XI

Implementation of Section 221(b) of the Compact

Article XI

Implementation of Section 221(b) of the Compact

1. The Government of the United States recognizes the special needs of the Marshall Islands and the Federated States of Micronesia, particularly in the fields of education and health care. The Governments of the Marshall Islands and the Federated States of Micronesia have determined that their special needs, particularly in the fields of education and health care, can be addressed through provision by the Government of the United States of a special block grant of assistance. In light of this determination and in implementation of Section 221(b) of the Compact, the Government of the United States shall assist those Governments in meeting their special needs through provision of the assistance set forth in this Article.

2. The Government of the United States shall provide annually to each of the Governments of the Marshall Islands and the Federated States of Micronesia a special block grant to be used in accordance with the purposes set forth in paragraph 3 of this Article. Except as otherwise provided pursuant to Section 221(b) of the Compact, the annual amount of this special block grant shall be $3 million for the Government of the Marshall Islands and $7 million for the Government of the Federated States of Micronesia.

3. The special block grant provided by the Government of the United States is divided into the program categories set forth in this paragraph. In any year, the Government of the Marshall Islands or the Federated States of Micronesia may dedicate its overall block grant to any combination of these program categories subject to the guidelines set forth in paragraph 5 of this Article. The special block grant provided pursuant to Section 221(b) of the Compact and this Article is intended to complement the programs of the Governments of the Marshall Islands and the Federated States of Micronesia in the same program categories.

(a) Health Care Program Category

Funding dedicated to the health care program category may support program efforts including the following areas:

-- Preventive Health Care and Services;

-- Maternal and Child Health Services;

-- Alcohol, Drug Abuse and Mental Health;

-- Primary Health Care including provision of grants to private non- profit, public or governmental entities for planning, development and operation of community health centers and for the delivery of family health services;

-- Social Services including support for private non-profit, community, public or governmental efforts in child care services, family planning, day-care services, counseling, and preparation and delivery of meals or other health support services; and

-- Community Services including support for in the area of emergency health assistance, community health systems rehabilitation or reestablishment and housing.

(b) Education program category

Funding dedicated to the education program category may be used to support programs including the following areas:

-- Vocational Education including support for private non-profit, public and governmental institutions of vocational education and maintenance of vocational education physical plants;

-- Primary and Secondary Education including grants to public or private non-profit primary and secondary educational institutions for curriculum development, staffing and personnel, supplies, teacher training, and maintenance of primary and secondary education physical plants;

-- Post-secondary Education including grants to private non-profit or public institutions of post-secondary education, maintenance of post-secondary education physical plants, curriculum development, teacher training and recruitment; and

-- Educational planning and research.

(c) Technical Assistance

Funding provided in this program category may be used by the Governments of the Marshall Islands and the Federated States of Micronesia to employ technical experts in any area of specific need. This technical assistance may be used as transitional assistance or to mount sustained program efforts including the training of local personnel in the program areas.

(d) Housing Assistance

Funding dedicated to this program category may be used generally for housing assistance programs sponsored by the Government of the Marshall Islands or the Federated States of Micronesia including guarantees of commercial loans for initial construction or improvements.

(e) Food Supplement Assistance

Funding dedicated to this program category may be used to support governmental efforts and programs including those designed to ensure that the citizens of the Marshall Islands or the

Federated States of Micronesia are not without resources to meet minimum nutritional requirements.

4. The Governments of the Marshall Islands and the Federated States of Micronesia shall each present annual special block grant program plans to the Government of the United States which plans shall set forth the purposes for which the special block grant funding shall be used. Each annual special block grant program plan may take any form which is most convenient to the Government submitting it but the plan must indicate that the funds will be expended in a manner consistent with paragraphs 3 and 5 of this Article.

5. The use of the special block grant funds by the Government of the Marshall Islands or the Federated States of Micronesia shall comply with the guidelines set forth in this paragraph.

(a) Transferability.

Funding may be transferred by the Government of the Marshall Islands or the Federated States of Micronesia among specific program purposes within the program categories set forth in paragraph 3 as well as among the program categories from year to year.

(b) Guidelines for expenditures.

Funding available to the Governments of the Marshall Islands and the Federated States of Micronesia in their annual special block grant allocations may not be used for the following purposes:

-- cash assistance payments to individual citizen program recipients which totals more than ten percent of any year's total allocation to the Government concerned;

-- payment to or support of for-profit organizations;

-- investment in any interest bearing instruments;

-- purchase of equipment not primarily related to the program category purposes set forth in paragraph 3.

-- purchase of technical assistance or services from any individual government other than the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia.

In any year, not more than 10% of the total annual allocation of special block grant funds available to the Government of the Marshall Islands or the Federated States of Micronesia may be used for administrative expenses attendant to program or service delivery, exclusive of medical referral and other transportation costs directly related to delivery of programs and services to recipients.

(c) Audit.

The Governments of the Marshall Islands and the Federated States of Micronesia shall keep current records of all funding transactions of the special block grant funds and shall make such records available to the Government of the United States in connection with any audits conducted pursuant to Section 233 of the Compact.

6. Funds made available by the Government of the United States to the Governments of the Marshall Islands and the Federated States of Micronesia pursuant to Section 221(b) of the Compact and this Article do not require any matching with local funds.

7. In the event that the audit conducted pursuant to Section 233 of the Compact and paragraph 5(c) of this Article reveals that the expenditure of funds by the Government of the Marshall Islands or the Federated States of Micronesia, respectively, in connection with a prior year special block grant was not in conformity with the requirements of this Article, the Government of the United States may withhold, for the subsequent year, special block grant funding which would otherwise be made available to the Government not in conformity. Should the Government of the United States determine to withhold special grant funding pursuant to this paragraph, such action shall be subject to the consultation and dispute resolution provisions of Article II of Title Four of the Compact. The Government of the United States and the concerned recipient government shall consult regarding the nature of actions required.

8. Funding for the special block grant shall be disbursed by the Government of the United States to the Governments of the Marshall Islands and the Federated States of Micronesia in the same fashion as the current account grant funding referred to in Article I of Title Two of the Compact.

Article XII

Transition and Termination of Services and Related Programs

Article XII

Transition and Termination of Services and Related Programs

1. Whenever the Government of the Marshall Islands or the Federated States of Micronesia desires to terminate a category of the services and related programs set forth in Articles VI, VII, VIII, IX, X or XI of this Agreement, that Government shall give written notice to the United States resident representative and to the Federal agency concerned. The Government of the United States shall assist in the orderly transfer of authority and responsibility. Unless otherwise agreed, the authority and responsibility of the Government of the United States under this Agreement shall terminate one year after receipt of such notice by the resident representative.

2. Upon termination of a category of services and related programs pursuant to paragraph 1 of this Article, the applicability of all laws of the United States, its regulations, practices, policies, treaties, conventions, or arrangements, which are applicable to that category solely by virtue of this Agreement, shall cease to be applicable in the territory of the Government which has given notice, and any authority and responsibility of the Government of the United States for the conduct of foreign affairs in respect to such services and related programs shall also cease.

Article XIII

Effective Date, Amendment and Duration

Article XIII

Effective Date, Amendment and Duration

1. This Agreement shall enter into force simultaneously with the Compact; its related Exchanges of Notes shall enter into force in accordance with their own terms.

2. The provisions of this Agreement may be amended as to all of the Governments of the Marshall Islands and the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement.

3. The provisions of this Agreement or its related Exchanges of Notes may be amended as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement. The effect of any amendment made pursuant to this Section shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Agreement shall be notified promptly by the Government of the United States of any such amendment.

4. This Agreement shall remain in force for a period of fifteen years, subject to Section 231 and Article IV, Title Four of the Compact.

5. This Agreement may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Marshall Islands and the Government of the Federated States of Micronesia. Each Government accepting this Agreement shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Federal Programs and Services Agreement which shall come into effect in accordance with its terms between the Government of the United States and the other Governments signatory to this Agreement.

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE FEDERATED STATES OF MICRONESIA

FEDERAL PROGRAMS AND SERVICES AGREEMENT

Concluded Pursuant to
Article II of Title Two and Section 232 of
the Compact of Free Association

DONE AT Majuro, Marshall Islands, this 25th day of June, one thousand, nine hundred eighty-three

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

- - - - - - - -

DONE AT Majuro, Marshall Islands, this 25th day of June, one thousand, nine hundred eighty-three

FOR THE GOVERNMENT

OF

THE MARSHALL ISLANDS

A-1

FEDERAL PROGRAMS AND SERVICES AGREEMENT

AGREED MINUTES

Federal Programs and Services Agreement: The provisions of this Agreement relating to technical assistance to be provided in connection with specific programs and services are without prejudice to the provision of technical assistance pursuant to Section 226 or other provisions of the Compact.

Article II, paragraph 6, Legal Status of Programs and Related Services, Federal Agencies, United States Contractors and United States Personnel: Paragraph 6 is without prejudice to the Government concerned adopting laws and regulations which require the giving of notice of such transfer.

Article VI, Postal Services and Related Programs, paragraph 10: This Agreement does not impair the authority of the Governments of the Marshall Islands or the Federated States of Micronesia, pursuant to paragraph 1 of this Article, to enact laws and promulgate regulations governing the operation of their respective local postal services.

Article VIII, Civil Aviation Safety Services and Related Programs: The Signatory Governments intend that aviation safety authorities be in place in the Marshall Islands and the Federated States of Micronesia on or as soon after the effective date of this Agreement as is necessary or practicable. To this end, the Government of the United States agrees to provide FAA technical assistance in the preparation of aviation safety statutes and regulations for the Governments of the Marshall Islands and the Federated States of Micronesia. On or after the effective date of this Agreement, such technical assistance shall be provided through agreements concluded pursuant to paragraph 4 of this Article. Prior to the effective date of this Agreement, such technical assistance shall be provided only if funding is obtained to reimburse the FAA for such assistance. The Governments of the Marshall Islands and the Federated States of Micronesia have been advised that such funds will have to be provided by the Government receiving FAA technical assistance should such funds not otherwise be available.

Article IX, Civil Aviation Economic Services and Related Programs: It is the intention of the Government of the United States to provide to the Government of the Federated States of Micronesia assistance in the negotiation of air rights with third countries, or to negotiate such rights on behalf of those Governments, if mutually agreed as provided for in paragraph 3 of Article IX of this Agreement. Such assistance will be provided by the United States in as timely and effective a manner as available personnel and resources permit, and will not be unreasonably withheld. Should the Government of the United States determine that it would not be consistent with the interests of the United States to agree to provide such assistance in accordance with a particular request

AGREED MINUTES

for same by the Government of the Federated States of Micronesia, the Government of the United States shall advise that Government of the basis for such determination.

Article IX, Civil Aviation Economic Services and Related Programs: The Government of the United States has notified the Government of the Federated States of Micronesia that it is the intention of the Government of the United States that its consent to the classification of a foreign air carrier as a Freely Associated State Air Carrier, shall be conditioned upon the carrier's demonstration to the satisfaction of the Civil Aeronautics Board that it is substantially owned and effectively controlled by citizens of the Federated States of Micronesia or the United States.

Article XI, Implementation of Section 221(b) of the Compact, paragraph 5(b): The Governments of the Marshall Islands and the Federated States of Micronesia may, consistent with the expenditure guidelines set forth in paragraph 5(b), purchase technical assistance from the Government of the United States of America, its territories and possessions, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

Article XI, Implementation of Section 221(b) of the Compact, paragraph 5(b): The provisions of paragraph 5(b) of the Compact for payments to or support of for-profit organizations are not intended to preclude acquisition of goods and services for public purposes within the programs categories set forth in paragraph 3 of Article XI.

Article XI, Implementation of Section 221(b) of the Compact, paragraph 7: Should the United States determine to withhold special grant funding from the Federated States of Micronesia pursuant to paragraph 7 of Article XI, such withholding action shall be effective three months after the Government of the Federated States of Micronesia receives notice of the intention of the Government of the United States. During this period, the Government of the United States and the Government of the Federated States of Micronesia shall consult to determine the nature of the actions which, if taken, would result in restoration of the special block grant funding which the Government of the United States has determined to withhold.

AGREEMENT CONCLUDED PURSUANT TO SECTION 234 OF THE COMPACT OF FREE ASSOCIATION

AGREEMENT
CONCLUDED PURSUANT TO SECTION 234 OF THE COMPACT OF FREE ASSOCIATION

Section 234 of the Compact of Free Association (the Compact) provides that title to the property of the Government of the United States which is situated in the Trust Territory of the Pacific Islands, or which has been acquired by the Government of the United States for use by the Government of the Trust Territory of the Pacific Islands, on or before the day preceding the effective date of the Compact shall vest in the Governments of the Marshall Islands and the Federated States of Micronesia. This vesting of title shall be without reimbursement or transfer of funds by or from the Governments of the Marshall Islands and the Federated States of Micronesia. Title to property of the Government of the United States for which the Government of the United States determines a continuing requirement shall remain vested in the Government of the United States.

United States Public Law 96-597 (94 Stat. 3477) provides in Section 402 that all right, title and interest of the Government of the United States in personal property situated in the Trust Territory of the Pacific Islands shall be transferred to the Government of Palau, the Marshall Islands, the Federated States of Micronesia or the Northern Mariana Islands, without reimbursement by any of them. The High Commissioner of the Trust Territory of the Pacific Islands is required to establish a list of distribution of the property among the recipient governments and in consultation with them. Only property which is surplus to the needs of the Government of the United States shall be included in this list for transfer.

In light of Section 234 of the Compact and of Section 402 of United States Public Law 96-597, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia confirm their mutual understanding as follows:

1. Identity of Intent

Section 234 of the Compact and Section 402 of United States Public Law 96-597 both have the intention of transferring to the Governments of the Marshall Islands and the Federated States of Micronesia title to property owned but not further required by the Government of the United States, which is situated in the Trust Territory of the Pacific Islands.

2. Authority for Transfer of Title to Property

The Government of the United States confirms that the property which it contemplates will be transferred under Section 234 of the Compact of Free Association or under Section 402 of United States Public Law 96-597 is transferred pursuant to the legislative authority contained in those instruments. In accordance with its terms Section 234 of the Compact provides legislative authority for the transfer of title to property of the Government of the United States for the full period of its effectiveness.

3. Timing of Transfer of Title

United States Public Law 96-597 directs that title to the property in question shall vest in the recipient governments. Prior to the effective date of the Compact, transfer of title to the property in question shall be governed by United States Public Law 96-597. The Compact, as of its effective date, shall provide the legislative authority for the transfer of title to the property in question to the Governments of the Marshall Islands and the Federated States of Micronesia.

4. Future Transfers of Property

If, at any time after the effective date of the Compact of Free Association and during the period of effectiveness of Section 234 of the Compact, the Government of the United States determines that it no longer has a continuing requirement for any property which would otherwise have been transferred in accordance with paragraph 3 of this Agreement, the Government of the United States may, at its discretion, transfer title to such property to the Government of the Marshall Islands or the Federated States of Micronesia. The identity of the recipient government shall be the same as the location of the property.

5. Ancillary Understandings

Any understandings or agreements entered into by the High Commissioner of the Trust Territory of the Pacific Islands and the Governments of the Marshall Islands and the Federated States of Micronesia in the implementation of Section 402 of United States Public Law 96-597 and with respect to property addressed in Section 234 of the Compact shall have full force and effect as though the transfer of title to the property in question had taken place under the authority of Section 234 of the Compact.

The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree that the list of distribution established by the High Commissioner of the Trust Territory of the Pacific Islands shall, at the time of its publication, be attached to this Agreement as Annex A.

The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia further agree that this Agreement constitutes the separate agreement referred to in Section 234 of the Compact.

This Agreement may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Government of the Marshall Islands and the Government of the Federated States of Micronesia. Each Government accepting this Agreement shall possess an original English language version.

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present Agreement.

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE FEDERATED STATES OF MICRONESIA

AGREEMENT
CONCLUDED PURSUANT TO SECTION 234 OF THE COMPACT OF FREE ASSOCIATION

DONE AT Majuro, Marshall Islands, this 25th day of
June, one thousand, nine hundred eighty-three

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

* * *

DONE AT Majuro, Marshall Islands, this 25th day of
June, one thousand, nine hundred eighty-three

FOR THE GOVERNMENT

OF

THE MARSHALL ISLANDS

STATUS OF FORCES AGREEMENT
Concluded Pursuant to Section 323 of The Compact of Free Association

Agreement in Implementation
# of Section 323 of
The Compact of Free Association

Status of Forces Agreement

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STATUS OF FORCES AGREEMENT
Concluded Pursuant to Section 323 of The Compact of Free Association

This Agreement is concluded by the Signatory Governments and sets forth the legal status of the Armed Forces of the United States, their members, and associated civilians, while present in the Marshall Islands or the Federated States of Micronesia pursuant to Section 323 of the Compact of Free Association (the Compact).

Article I

Definitions

Article I

Definitions

1. The Definition of Terms set forth in Article VI of Title Four of the Compact is incorporated into this Agreement.

2. For the purposes of this Agreement only, the following terms shall have the following meanings:

(a) "Armed Forces of the United States" means the land, sea and air armed forces of the United States of America, including the Coast Guard.

(b) "United States Contractors" means the legal entities, including corporations and natural persons, present in the Marshall Islands or the Federated States of Micronesia for the purpose of executing their contracts with the Government of the United States, or subcontracts of such contracts, in support of the Armed Forces of the United States and designated as such by the Government of the United States. The term "United States Contractors" does not include local contractors.

(c) "Local Contractors" means the legal entities, including corporations and natural persons organized under the laws of, and who are in, the Marshall Islands or the Federated States of Micronesia, respectively.

(d) "United States Personnel" means anyone who is included in in any of the following categories:

(1) "members of the force" -- all military personnel, notwithstanding their citizenship or nationality, on duty with the Armed Forces of the United States who are in the Marshall Islands or the Federated States of Micronesia;

(2) "members of the civilian component" -- all civilian persons, notwithstanding their citizenship or nationality, except local hire personnel, who are in the Marshall Islands or the Federated States of Micronesia, and who are in the employ of, serving with, or accompanying the Armed Forces of the United States;

(3) "contractor personnel" -- natural persons, who are United States citizens or nationals or United States permanent resident aliens, except local hire personnel, who are in the Marshall Islands or the Federated States of Micronesia, and who are United States contractors or officers or employees of United States contractors; or

(4) "dependents" -- the spouses and children of persons included in paragraphs 2(d)(1), 2(d)(2) and 2(d)(3) of this Article and, while members of the household of such persons, other relatives or wards of such persons or their spouses.

(e) "Third Country Contractor Personnel" means natural persons other than United States personnel or local hire personnel who are in the Marshall Islands or the Federated States of Micronesia and who are United States contractors or officers of employees of United States contractors or dependents of any of them.

(f) "Local Hire Personnel" means citizens and nationals of the Marshall Islands or the Federated States of Micronesia, who are employed in the Marshall Islands or the Federated States of Micronesia, respectively, by the Armed Forces of the United States or United States contractors.

(g) "Defense Sites" Means "Military Areas and Facilities" as defined in Section 461 (i) of the Compact.

(h) "Judge" means any judicial officer of a Signatory Government who has the authority to issue a warrant of arrest or its equivalent and for purposes of this Agreement, except for paragraph 6(c) of Article XII, shall also include judicial officers certified as such by the Government concerned.

Article II

Movement

Article II

Movement

1. Consistent with the Compact, this Agreement and any other agreements concluded between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia in accordance with Sections 321 and 323 of the Compact:

(a) All aircraft, vessels and vehicles operated by, for, or under the control of the Armed Forces of the United States or United States contractors shall enjoy freedom of movement in the Marshall Islands and the Federated States of Micronesia;

(b) Such aircraft, vessels and vehicles shall be operated in a manner which minimizes danger to persons and property and interference with trade, commerce, exploration and exploitation of living and non-living resources of the sea; and

(c) Movement of such aircraft, vessels and vehicles in the Marshall Islands and the Federated States of Micronesia, including access to and use by them of defense sites, ports, harbors and airfields, shall not be subject to any taxes, fees or other charges, except those fees or other charges set forth in paragraph 2 of this Article.

2. The Armed Forces of the United States and United States contractors shall pay, at generally prevailing rates unless otherwise agreed, for specific services rendered at their request, including materials received at their request in connection with the use of ports, harbors and airfields in the Marshall Islands and the Federated States of Micronesia. Such services and materials may include fuel, towing, mechanical servicing and utilities.

Article III

Entry and Departure

Article III

Entry and Departure

1. The Government of the United States may bring into the Marshall Islands and the Federated States of Micronesia:

(a) United States personnel and United States contractors; and

(b) Third country contractor personnel in a manner consistent with those laws of the Marshall Islands or the Federated States of Micronesia, respectively, relating to the exclusion of individual, undesirable aliens and taking into account paragraph 5 of this Article and Article IV of this Agreement.

2. United States personnel shall be exempt from the passport and visa laws and regulations of the Marshall Islands and the Federated States of Micronesia. Taking into account paragraph 1(b) of this Article and Article IV of this Agreement applications of third country contractor personnel for visas shall be granted or denied expeditiously. All such personnel shall comply with medical immunization requirements of the Marshall Islands and the Federated States of Micronesia, respectively.

(a) No United States personnel or third country contractor personnel shall acquire any right to permanent residence or domicile solely as a result of their being United States personnel or third country contractor personnel.

(b) United States personnel shall be exempt from laws and regulations of the Marshall Islands and the Federated States of Micronesia on the entry, departure, registration and control of aliens and foreign agents.

3. Upon entry into or departure from the Marshall Islands or the Federated States of Micronesia, United States personnel shall have in their possession official orders or documents certifying the status of the individual or group. Such orders or documents shall be shown on request to the appropriate authorities of the Government concerned.

4. For the purpose of their identification while in the Marshall Islands or the Federated States of Micronesia, United States personnel ten years of age or older shall have in their possession a personal identification card authorized by the Government of the United States which shall show the name, date of birth, status, and photograph of the bearer. Such card shall be shown on request to the appropriate authorities of the Government concerned.

5. Should the Government of the Marshall Islands or the Federated States of Micronesia request the removal from the Marshall Islands or the Federated States of Micronesia, respectively, of any United States personnel or any third country contractor personnel, the

request shall be referred to the Joint Committee established pursuant to Section 351 of the Compact for resolution in accordance with that Section, unless the Government of the United States receives the person concerned within its own territory or otherwise effects the departure of such person outside the territory of the requesting Government. Section 351 of the Compact is incorporated by reference into, and becomes a part of, this Agreement. If the Joint Committee so determines, the person concerned shall immediately become subject to the jurisdiction of the Government of the Marshall Islands or the Federated States of Micronesia in accordance with its laws.

6. Transportation costs attendant to the departure and removal of third country contractor personnel shall be the responsibility of the Government of the United States.

Article IV

Utilization of Contractors and Employment of Labor

Article IV

Utilization of Contractors and Employment of Labor

1. In the establishment, maintenance, and use and operation of defense sites and in the execution of obligations undertaken by the Government of the United States in the Compact and its related Agreements, the Armed Forces of the United States, United States contractors and local contractors:

(a) may employ persons possessing requisite skills and qualifications. Employment preference shall be given, without discrimination, to citizens, nationals and permanent resident aliens of the Marshall Islands or the Federated States of Micronesia, in their respective jurisdictions, and of the United States. In the employment of such persons pursuant to the preferences set forth in this paragraph, the Armed Forces of the United States and United States contractors shall exercise their best efforts to employ persons present in the Marshall Islands or the Federated States of Micronesia, respectively; and

(b) shall utilize without discrimination, consistent with the laws and regulations of the United States, qualified local contractors and contractors which are legal entities of the United States. The Armed Forces of the United States and United States contractors shall ensure that the specifications and instructions for contract bids shall permit such free and full competition as is consistent with the procurement of the goods and services needed by the Government of the United States.

2. Prior to the employment of third country personnel or the utilization of third country contractors, the Government of the United States shall notify the Government concerned and shall consult, if requested, with that Government as to the availability of qualified local hire personnel or qualified local contractors.

3. The laws and regulations of the Marshall Islands or the Federated States of Micronesia shall not apply to the terms and conditions of employment of United States personnel or third country contractor personnel by the Armed Forces of the United States or United States contractors. The Government of the Marshall Islands or the Federated States of Micronesia shall not require United States personnel, third country contractor personnel or United States contractors to obtain any license, permit or certificate, or to undergo any examination, in connection with the performance of their duties on behalf of the Armed Forces of the United States.

4. In the employment of local hire personnel by the Armed Forces of the United States and United States contractors, the Government of the United States shall adopt measures consistent with the standards of local labor laws to the extent they are compatible with the laws, regulations and operational requirements of the United States.

Article V

Taxes and Customs

Article V

Taxes and Customs

1. The following are exempt from any tax, fee or similar charge imposed by the Government of the Marshall Islands or the Federated States of Micronesia:

(a) The services, activities, facilities, equipment, material, income or any other property or transactions of the Armed Forces of the United States or United States contractors;

(b) The ownership, possession, use, or transfer inter se by United States personnel, by death or otherwise, of real or personal property, tangible or intangible, wherever located; and

(c) Income received by United States personnel for services with or employment by the Armed Forces of the United States or United States contractors, or from sources outside the territory of the Government concerned, except that United States contractor personnel and dependents who are also United States contractor personnel are not exempt from a personal income tax generally applicable within the Marshall Islands or the Federated States of Micronesia up to a level of five percent of their annual income derived from their employment in the Marshall Islands or the Federated States of Micronesia, respectively, by United States contractors.

2. Third country contractor personnel shall be subject to income tax generally applicable in the Marshall Islands and the Federated States of Micronesia, respectively.

3. All materials, equipment and other property imported or exported by or on behalf of the Armed Forces of the United States, or United States contractors for the use or benefit of the Armed Forces of the United States, United States contractors, United States personnel, or third country contractor personnel shall be permitted entry into and exit from the Marshall Islands or the Federated States of Micronesia free from customs duties, license requirements, and other import and export taxes, fees or charges.

4. United States personnel may import into and export from the Marshall Islands or the Federated States of Micronesia furniture, household goods and personal effects for their personal or family use, including all forms of privately owned land, sea and air transportation, free from customs duties, license requirements, and other import and export taxes, fees or charges.

5. The following are exempt from customs examination by the Government of the Marshall Islands or the Federated States of Micronesia:

(a) Members of the force, members of the civilian component and the dependents of both when entering or leaving the Marshall Islands or the Federated States of Micronesia under official orders except when under leave orders;

(b) Documents under official seal, and mail in the United States military postal channels; and

(c) Cargo consigned to or shipped by the Armed Forces of the United States or United States contractors.

6. The Armed Forces of the United States, in cooperation with the Government concerned, shall take appropriate measures, including inspection, to prevent the importation of contraband and to prevent abuse of privileges granted under this Article.

7. Should property imported into the Marshall Islands or the Federated States of Micronesia under the exemptions provided by this Article subsequently be transferred to a person not entitled to such exemptions, such person shall be liable for import duties and other charges according to the laws and regulations of the Government concerned.

8. Animals and plants, including fruits and vegetables, imported by United States personnel, subject to the provisions of this Article, and by third country contractor personnel shall be subject to the laws and regulations of the Marshall Islands or the Federated States of Micronesia, respectively, governing such inspection of and restriction on such importations.

Article VI

Service Facilities

Article VI

Service Facilities

The Armed Forces of the United States may authorize the establishment, use, operation and maintenance within defense sites in the Marshall Islands or the Federated States of Micronesia of service, educational and recreational facilities. Such facilities and their related activities, including the importation, purchase, sale or dispensing of merchandise and services by them shall be exempt from all taxes, customs duties, fees, charges and license requirements of the Government of the Marshall Islands or the Federated States of Micronesia.

Article VII

Military Post Offices

Article VII

Military Post Offices

The Armed Forces of the United States may establish, operate and maintain military post offices within defense sites for their use and the use of United States contractors and United States personnel. A mail facility operated by a United States contractor on behalf of the Armed Forces of the United States shall be considered a military post office within the meaning of this Article.

Article VIII

Bearing of Arms

Article VIII

Bearing of Arms

1. Members of the force may possess and use arms when necessary to perform their official duties and, in specially designated areas in defense sites, to maintain skills to perform their official duties, in accordance with the laws and regulations governing the Armed Forces of the United States.

2. Contractor personnel may possess or use arms when acting in support of the military mission of the Government of the United States in an official capacity as law enforcement personnel or security officers designated as such by the Government of the United States in accordance with its laws and regulations.

3. Any other possession or use of arms shall be only as agreed between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia.

Article IX

Operation and Licensing of Vehicles

Article IX

Operation and Licensing of Vehicles

1. The Government of the Marshall Islands or the Federated States of Micronesia shall accept as valid, without a test or fee, the operator's permit or license or military driving permit issued to United States personnel or third country contractor personnel by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

2. Official vehicles of the Armed Forces of the United States, vehicles owned or operated by United States contractors, and privately owned vehicles of United States personnel shall be identified by individual markings or license plates issued by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands. However, the Government of the United States may use local individual markings or license plates in the Federated States of Micronesia.

(a) Official vehicles shall not be subject to the registration or safety inspection laws of the Government of the Marshall Islands or the Federated States of Micronesia.

(b) The Armed Forces of the United States may register vehicles of United States contractors and United States personnel which are not official vehicles, and may inspect such vehicles applying safety standards of general applicability in the Marshall Islands or the Federated States of Micronesia, respectively. Vehicles so registered and inspected shall be exempt from the registration and safety inspection laws of the Government of the Marshall Islands or the Federated States of Micronesia, respectively.

3. For purposes of this Article the term "vehicles" includes all forms of land, sea and air transportation.

Article X

Relinquishment of Defense Sites

Article X

Relinquishment of Defense Sites

1. If any installations or improvements which were constructed at the expense of the Government of the United States are to be left behind after relinquishment of a defense site or portion thereof, whether at the termination of any agreement provided for in Section 321 or 323 of the Compact or at any other date, the Government of the Marshall Islands or the Federated States of Micronesia and the Government of the United States shall consult to determine the residual value, including scrap value, if any, of any such installations or improvements to the Government concerned.

2. The Government of the United States shall take all measures practicable to ensure that every condition substantially or materially hazardous to human life, health and safety resulting from use of defense sites is removed or otherwise made safe. The Governments concerned shall consult as to what constitutes a hazard and how hazards shall be removed or otherwise made safe.

3. The Government of the United States shall have no obligation, upon relinquishment, to restore defense sites to their former condition; however, upon such relinquishment of a defense site or portion thereof, or sooner if mutually agreed, the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall enter into negotiations with a view to reaching an equitable arrangement for return of lands that takes due account of United States investment, the prospective use to which such lands will be used and the unique importance of land under local custom and law.

Article XI

Equipment

Article XI

Equipment

The Government of the United States shall retain title to equipment, materials and other moveable property brought into or acquired in the Marshall Islands or the Federated States of Micronesia and may remove such property at any time. In the event the Government of the United States wishes to dispose of such equipment, materials or other moveable property, the Government of the Marshall Islands or the Federated States of Micronesia shall have a right of first refusal to purchase such items, at an agreed upon price, after the Government of the United States has fulfilled its statutory and regulatory responsibilities including first offering such equipment to other agencies of the Government of the United States.

Article XII

Criminal Jurisdiction

Article XII

Criminal Jurisdiction

1. Subject to the provisions of this Article:

(a) United States personnel are subject to the criminal jurisdiction of the Government of the Marshall Islands or the Federated States of Micronesia for offenses committed by such personnel in the Marshall Islands or the Federated States of Micronesia, respectively.

(b) The Government of the United States has the right to exercise within the Marshall Islands and the Federated States of Micronesia criminal and disciplinary jurisdiction over United States personnel for offenses punishable under the laws of the United States. In lieu of criminal or disciplinary proceedings in the Marshall Islands or the Federated States of Micronesia, the Government of the United States may elect to remove United States personnel for such proceedings elsewhere.

(c) For purposes of asserting jurisdiction under this Article, the determination of a Signatory Government as to whether an offense is punishable under its laws shall be conclusive.

2. The Government of the Marshall Islands or the Federated States of Micronesia has the right to exercise exclusive jurisdiction over United States personnel with respect to offenses committed in the Marshall Islands or the Federated States of Micronesia, respectively, which are punishable under local law, but not under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States.

3. The Government of the United States has the right to exercise exclusive jurisdiction over United States personnel with respect to offenses committed in the Marshall Islands or the Federated States of Micronesia which are punishable under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States, but not under local law.

4. The Government of the Marshall Islands or the Federated States of Micronesia and the Government of the United States have concurrent jurisdiction over United States personnel with respect to offenses committed in the Marshall Islands or the Federated States of Micronesia, respectively, which are punishable under both local laws and the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States. Whenever it is determined by the Government of the Marshall Islands or the Federated States of Micronesia that an act or omission is a punishable offense under the laws of the Marshall Islands or the Federated States of Micronesia, respectively, and it is determined by the Government of the United States that the same act or omission is a punishable offense under the laws of the United States applicable to offenses committed outside the territorial

jurisdiction of the United States, the following rules shall apply:

(a) The Government of the Marshall Islands or the Federated States of Micronesia, respectively, has the primary right to exercise jurisdiction over United States personnel in all other cases of concurrent jurisdiction, except as provided in paragraph 4(b) of this Article.

(b) The Government of the United States has the primary right to exercise jurisdiction over United States personnel in the Marshall Islands or the Federated States of Micronesia, respectively, for:

(1) Offenses committed within defense sites, including non-exclusive-use areas during periods of use by the Government of the United States under applicable military use and operating rights agreements concluded under Sections 321 and 323 of the Compact;

(2) Offenses against the property or security of the United States, or offenses against the person or property of United States personnel;

(3) Offenses arising out of the performance of official duty;

(4) Offenses committed by United States personnel who are attached to or embarked in aircraft or vessels transiting the Marshall Islands or the Federated States of Micronesia and which are operated by, for, or under the control of the Armed Forces of the United States or United States contractors; and

(5) Any other offense punishable by deprivation of liberty or by a more severe penalty. However, the Government of the Marshall Islands or the Federated States of Micronesia, respectively, has the primary right of jurisdiction to try any offense that is not a felony under local law and for which the sole penalty which shall be adjudged or imposed, if any, is a fine. Not later than the day following the third anniversary of the effective date of this Agreement, the Government of the Marshall Islands or the Federated States of Micronesia, respectively, shall have the primary right to exercise jurisdiction over any such offense which is not a felony under local law and is subject to a maximum punishment no greater than deprivation of liberty for less than six months.

(c) The Government of the Marshall Islands or the Federated States of Micronesia having the primary right to exercise jurisdiction waives that right, unless it notifies the Government of the United States of its intention to exercise such right as soon as practicable, but within 30 calendar days after notification of the offense by either Government.

(d) The Government having the primary right to exercise jurisdiction shall give sympathetic consideration to a request from the other Government concerned for a waiver of such primary right in cases the requesting Government considers to be of particular importance.

(e) The provisions of this Article shall be reviewed by the Signatory Governments concerned at anytime on request by one of them, but not later than during the year following the fifth anniversary of the effective date of this Agreement in order to determine whether any modification of its provisions may be appropriate in light of circumstances then prevailing.

5. Except for laws officially transmitted in English to the Government of the United States by the Government concerned, ignorance of the laws of the Marshall Islands or the Federated States of Micronesia shall constitute a defense.

6. The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall assist each other in the arrest or detention of United States personnel in the Marshall Islands or the Federated States of Micronesia, respectively.

(a) The Government concerned shall promptly notify the Government of the United States of the arrest or detention of any United States personnel.

(b) Members of the force accused or suspected of the commission of any offense in the Marshall Islands or the Federated States of Micronesia shall remain in or be transferred to the custody of the Government of the United States unless the Government of the United States declines such custody. The Government of the United States shall make available for purposes of investigation or trial members of the force in its custody over whom the Government of the Marshall Islands or the Federated States of Micronesia has the right to exercise jurisdiction pursuant to this Agreement. Upon completion of all judicial proceedings, including appellate proceedings, such personnel shall be transferred to the Government of the Marshall Islands or the Federated States of Micronesia concerned if a sentence providing for deprivation of liberty has been finally adjudged.

(c) The provisions of Title Four of the Agreement on Mutual Assistance in Law Enforcement Matters shall be applicable to United States personnel who are citizens or nationals of the United States.

(d) The Government of the United States may request custody of a prisoner who is a member of the force, deprived of liberty by order of a Court of the Marshall Islands or the Federated States of Micronesia. The Government concerned shall transfer such prisoner to the custody of the Government of the United States which shall provide for the carrying out of the terms of such deprivation of liberty.

7. The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall assist each other in the carrying out of all necessary investigations into offenses within the scope of this Article, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense. The transfer of such objects may be made subject to their return within the time specified by the Government delivering them.

8. Where a person has been tried in accordance with the provisions of this Article, either by the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia, and has been acquitted or convicted, or has been pardoned, he may not be tried again within the same territory for the same offense by either Government. This paragraph is without prejudice to the authority of the Armed Forces of the United States to try a member of the force for any violation of rules of discipline.

9. United States personnel prosecuted under the jurisdiction of the Government of the Marshall Islands or the Federated States of Micronesia shall be entitled to all guarantees and rights provided by the constitution and laws of the prosecuting Government for its own citizens and to the following guarantees and rights to the extent that they are not provided by that constitution and those laws:

(a) To a prompt and speedy trial;

(b) To be tried only in a court presided over by a qualified judge trained in the law;

(c) To be informed, in advance of trial, of the specific charge or charges made against such person;

(d) To be confronted with and permitted to cross-examine the witnesses against such person;

(e) To have compulsory process for obtaining witnesses in favor, of such person, if the witnesses are within the jurisdiction of the court;

(f) To have legal representation of such person's own choice for such person's defense throughout all investigative and judicial phases of the entire proceedings or, at such person's election, to have legal representation appointed by the court at no cost to such person under the same terms and conditions applicable to citizens of the Marshall Islands or the Federated States of Micronesia, as appropriate;

(g) To have the services of a competent interpreter, if such person considers it necessary;

(h) To communicate with a representative of the Government of the United States and to have such a representative present at trial and at all stages of the proceedings, including pretrial hearings and examinations and appeals;

(i) Not to be charged with a criminal offense on account of any act or omission which did not constitute a criminal offense under the statutory law of the prosecuting Government at the time it was committed or be subjected to punishment more severe or a procedure less favorable than the one applicable at the time the offense was committed;

(j) To be present at trial which shall be public;

(k) To have the burden of proof placed upon the prosecution;

(l) To be protected from the use of a confession or other evidence obtained by unlawful or improper means;

(m) Not to be compelled to testify against or otherwise incriminate himself or herself;

(n) Not to be required to stand trial while physically or mentally unfit to stand trial and participate in his or her defense;

(o) Not to be tried or punished more than once for the same offense, nor to be subject to a greater punishment after appeal than was adjudged initially by the court of first instance;

(p) To have the right to appeal a conviction or sentence;

(q) Not to be subject to an appeal by the prosecution from an acquittal, or a finding of not guilty;

(r) To have credited to any sentence of confinement any related period of pretrial confinement in a confinement facility of the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia; and

(s) Not to be subject to the application of martial law or trial by military courts or special tribunals.

10. United States personnel who have been tried in courts of the Government of the Marshall Islands or the Federated States of Micronesia, and who have been convicted and are serving sen-

tences in confinement facilities of such Government or United States personnel in pretrial custody of such Government, shall be entitled to receive visits not less than monthly from members of their families and from representatives of the Government of the United States. Health and comfort items including clothing, medicine and food may be delivered to and used by such United States personnel in confinement or pretrial custody.

11. Facilities of the Government of the Marshall Islands or the Federated States of Micronesia used for confinement or detention of United States personnel shall meet standards agreed upon by the Government of the United States and the Government concerned.

12. United States personnel convicted by courts of the Government of the Marshall Islands or the Federated States of Micronesia shall not be subject to the death penalty, nor to any form of cruel or unusual punishment.

13. This Article is without prejudice to the authority of the Government of the United States to exercise administrative authority over United States personnel.

Article XIII

Additional Criminal Jurisdiction

Article XIII

Additional Criminal Jurisdiction

In addition to the rights set forth in Article XII, the Government of the United States shall have the primary right to exercise jurisdiction over all United States citizens or nationals of the United States who are not United States personnel for offenses punishable under the laws of the United States committed within defense sites while in use by the Government of the United States in the Marshall Islands or the Federated States of Micronesia. The Government concerned shall assist the Government of the United States in the arrest of any such person. The custody of any such person shall remain in or be transferred to the Government of the United States unless such custody is declined. The waiver provisions of Article XII, paragraph 4, shall apply.

Article XIV

Respect for Local Law

Article XIV

Respect for Local Law

The Government of the United States shall adopt and enforce measures consistent with the Compact and this Agreement as may be necessary to ensure that United States personnel, United States contractors and third country contractor personnel respect the laws of the Marshall Islands and the Federated States of Micronesia, refrain from any activity inconsistent with this Agreement, and refrain from any political activity concerning the Marshall Islands or the Federated States of Micronesia, respectively.

Article XV

Claims

Article XV

Claims

1. The authorities of the Armed Forces of the United States shall pay just and reasonable compensation in settlement of meritorious noncontractual claims arising out of acts or omissions occurring prior or subsequent to the effective date of this Agreement in the Marshall Islands or the Federated States of Micronesia of members of the force; of members of the civilian component; and, if the act or omission was done in the performance of official duty, of local-hire personnel who are employed by the Armed Forces of the United States. All such claims shall be processed and settled by the authorities of the Armed Forces of the United States in accordance with the laws and regulations of the United States. Any such claims which cannot be settled as provided for in this paragraph, and which are espoused by the Government concerned, shall be referred to the Joint Committee established pursuant to Section 351 of the Compact.

2. Contractual claims against the Armed Forces of the United States shall be settled in accordance with the disputes clause of the contract if any, and the laws of the United States relating to the resolution of such disputes.

3. Subject to the provisions of Article XII of this Agreement, members of the force, members of the civilian component and, if the act or omission was done in the performance of official duty, local-hire personnel shall not be subject to any proceedings in the Marshall Islands or the Federated States of Micronesia for an act or omission.

4. The Government of the United States shall facilitate appropriate arrangements between the government of any third country which has members or units of its armed forces in the Marshall Islands or the Federated States of Micronesia pursuant to Section 315 of the Compact and the Government of the Marshall Islands or the Federated States of Micronesia with respect to appropriate settlement of claims arising from the activities of such members or units.

5. Any judgment presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, pursuant to Section 174 of the Compact of Free Association shall be deemed manifestly erroneous as to law if the claim upon which such judgment is based would have been barred by the statute of limitations if such claim had been brought in a court of the United States.

6. Pursuant to Section 174 of the Compact, all claims within the scope of this Article which otherwise would have been within the scope of Section 174 of the Compact shall be settled exclusively in accordance with the provisions of this Article.

Article XVI

Currency

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Article XVI

Currency

The Armed Forces of the United States, United States contractors and United States personnel may import into, possess and use within, and export from the Marshall Islands and the Federated States of Micronesia, United States currency. Such importation, possession, use and exportation of United States currency shall be exempt from any form of regulation, restriction, or control by the Government of the Marshall Islands or the Federated States of Micronesia. Should the Government of the Marshall Islands or the Federated States of Micronesia act pursuant to Section 251 of the Compact to institute a currency other than United States currency, the Government of the United States and the Government concerned shall consult regarding the applicability of foreign exchange laws and regulations in the jurisdiction of the Government concerned.

Article XVII

Medical Services

Article XVII

Medical Services

To the extent that appropriate services can be made available consistent with available resources and the laws and regulations of the United States, the Government of the United States shall provide, at the request of the Government concerned, medical care to citizens and nationals of the Marshall Islands and the Federated States of Micronesia in United States military medical facilities or by United States military medical personnel on a reimbursable basis under terms and conditions agreed upon between the Government of the United States and the Government concerned.

Article XVIII

Telecommunications

Article XVIII

Telecommunications

The Government of the United States may use local telecommunication systems and shall do so to the extent feasible. The Government of the United States in determining its uses of such systems shall take into consideration the cost and security of such systems.

(a) To the extent that the Governments of the Marshall Islands or the Federated States of Micronesia establish complete and fully effective commercial international telecommunications systems compatible with existing United States Government installations, and the Government of the United States determines such use is feasible based on the criteria above, the Government of the United States and the Government concerned shall enter into negotiations for a use arrangement which includes normal billing procedures. Following entering into such a use agreement, the Government of the United States shall withdraw or modify any authorizations for use of Defense communications systems for non-official calls by United States personnel.

(b) The Government of the United States shall encourage the use of local telecommunication systems by United States personnel for non-official purposes.

Article XIX

Effective Date, Amendment and Duration

Article XIX

Effective Date, Amendment and Duration

1. This Agreement shall come into effect simultaneously with the Compact.

2. This Agreement may be amended at any time as to the Government of the Marshall Islands or the Federated States of Micronesia by mutual consent of such Government and the Government of the United States.

3. The duration of this Agreement as between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia is for the period of effectiveness of either Title Three of the Compact or of the appropriate separate agreements entered into pursuant to Sections 321 and 323 of the Compact, whichever is the longer. Thereafter, this Agreement shall remain in force until terminated by a Signatory Government, in the following manner:

(a) Termination of this Agreement by any Signatory Government shall be effected by a written notification to either the Government of the United States or to the Government of the Marshall Islands or the Federated States of Micronesia, as appropriate. The Government of the United States shall notify all other Signatory Governments of each such notification.

(b) Termination shall take effect one year after the recipient Government has been notified, but this Agreement shall continue in force as between the Government of the United States and the remaining Signatory Governments.

4. This Agreement may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Government of the Marshall Islands and the Government of the Federated States of Micronesia. Each Government accepting this Agreement shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Status of Forces Agreement which shall come into effect in accordance with its terms between the Government of the United States and the other Governments signatory to this Agreement.

DONE AT Washington, D.C., THIS 24th DAY

OF May, ONE THOUSAND, NINE HUNDRED EIGHTY-Two

FOR THE GOVERNMENT

OF

THE MARSHALL ISLANDS

DONE AT Washington, D.C., THIS 24th DAY

OF May, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE FEDERATED STATES OF MICRONESIA

DONE AT Honolulu, Hawaii, THIS 1st DAY

OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

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STATUS OF FORCES AGREEMENT

Agreed Minutes

Article VI, Service Facilities: The terms "service, educational and recreational facilities" include schools, commissary stores, retail exchanges and related concessions, credit unions, banking facilities, radio and television stations, recreational facilities, and social and athletic clubs.

Article VII, Military Post Offices: Such military post offices shall be established, operated and maintained exclusively pursuant to the laws and regulations governing the Armed Forces of the United States.

Article VIII, Bearing of Arms: It is the intention of the Signatory Governments that local military commanders and designated representatives of the Government concerned shall enter into an exchange of letters governing the control of privately owned arms. Such an exchange of letters may address the following:

-- registration by military authorities of all privately owned arms, and the provision of registration lists, including certificates of transfer or removal of such arms, to the Government concerned;

-- designation of target practice areas within defense sites;

-- limitations on the carrying of privately owned arms outside defense sites; and

-- other provisions for the control by military authorities of privately owned arms.

Article XV, Claims: The Signatory Governments do not intend that paragraph 6 of Article XV preclude the operation of Section 174 of the Compact, provided that paragraph 5 of Article XV governs the operation of Section 174 (c) of the Compact. The import of paragraph 6 of Article XV, read with paragraph 1 of Article XV, is as follows:

-- All claims within the scope of paragraph 1 of Article XV which arise after the effective date of this Agreement shall be processed and settled exclusively pursuant to the Foreign Claims Act, 10 U.S.C. 2734, and any regulations promulgated in implementation thereof.

-- A claim within the scope of paragraph 1 of Article XV which arises during the two year period immediately prior to the effective date of this Agreement shall also be processed and settled pursuant to the Foreign Claims Act, 10 U.S.C. 2734, unless a court action based on such claim has been initiated prior to the effective date of this Agreement and the party bringing such court action continues the court

Agreed Minute

action and proceeds in accordance with Section 174(c) of the Compact. The party bringing such court action may, prior to entry of a final judgment by the court in the action, terminate the action before the court and bring the claim under paragraph 1 of Article XV, in which instance paragraph 6 of Article XV shall govern.

-- Claims arising more than two years prior to the effective date of this Agreement may be brought only in accordance with Section 174(c) of the Compact.

-- A claim processed, settled and paid under paragraph 1 of Article XV may not subsequently be brought under Section 174(c) of the Compact. Similarly, a claim which has proceeded to judgment in a court action and is subject to certification under Section 174(c) of the Compact may not be processed and settled under paragraph 1 of Article XV.

Article XV is without prejudice to any claim addressed in Section 353 of the Compact, whether such claim arises prior or subsequent to the effective date of this Agreement.

Article XVI, Currency: Subject to Article VI this Article is not intended to authorize the establishment or operation of a private financial institution in the Marshall Islands or the Federated States of Micronesia, except in accordance with local law.

Article XVII, Medical Services: The term "military medical facilities" as used in this Article does not include the contractor-operated medical facility at Kwajalein Island defense site.

Compact Of Free Association Bilateral Agreements

Agreement Between
the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association

Agreement Between
the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association

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Agreement Between
the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association

PREAMBLE

The Government of the United States and the Government of the Marshall Islands:

In recognition of the enduring friendship between the United States of America and the Republic of the Marshall Islands;

In reaffirmation of the Compact of Free Association (the Compact) between the Government of the United States and the Government of the Marshall Islands;

In fulfillment of the provisions of Section 177 of the Compact relating to the nuclear testing program which the Government of the United States conducted in the Northern Marshall Islands between June 30, 1946, and August 18, 1958 (the Nuclear Testing Program);

In recognition of the authority and responsibility of the Government of the Marshall Islands to provide medical and health care to all of the people of the Marshall Islands; and the expressed desire of the Government of the Marshall Islands to include in its integrated, comprehensive and universal medical health-care system, the health-care and surveillance programs and radiological monitoring activities contemplated in United States Public Law 95-134 and United States Public Law 96-205;

In recognition of the authority and responsibility of the Government of the Marshall Islands to provide for the welfare of all the people of the Marshall Islands; and the expressed desire of the Government of the Marshall Islands to create and maintain, in perpetuity, a means to address past, present and future consequences of the Nuclear Testing Program, including the resolution of resultant claims; and

In recognition of contributions and sacrifices made by the people of the Marshall Islands in regard to the Nuclear Testing Program;

NOW THEREFORE AGREE:

Article I

The Fund

Section 1 - Creation

In fulfillment of its obligations under Section 177 of the Compact, the Government of the United States shall provide to the Government of the Marshall Islands, on the effective date of this Agreement, the sum of $150 million to create a fund (the Fund).

Section 2 - Management

In furtherance of the desire of the Government of the Marshall Islands to provide, in perpetuity, a means to address past, present and future consequences of the Nuclear Testing Program:

(a) The Government of the Marshall Islands shall cause the Fund to be invested with the performance goal of producing for each year of the existence of the Fund average annual proceeds of at least $18 million (Annual Proceeds) for disbursement in accordance with this Agreement.

(b) The Government of the Marshall Islands, in order to achieve the performance goal of the Fund, shall retain as trustee and manager of the Fund (Fund Manager) an United States investment management company which has demonstrated substantial experience in the administration of trusts and which has funds under management in excess of $1 billion. The Fund Manager shall make disbursements in accordance with the provisions of this Agreement to the designated recipients in the name of "The Republic of the Marshall Islands Nuclear Claims Fund".

(c) The Fund shall be invested in bonds, notes and other instruments of investment grade and of United States nationality, including both debt and equity issues, common or preferred stocks, money market funds, certificates of indebtedness and mutual funds. The Government of the United States shall impose no transaction fee or intermediary charge on the investment of the Fund in instruments of the Government of the United States.

(d) Except as may be otherwise required by this Agreement and to achieve its desire to provide a perpetual means of addressing the special needs and unique circumstances of the people of the Marshall Islands resulting from the Nuclear Testing Program, the Government of the Marshall Islands shall not permit nor shall the Fund Manager make disbursements from the Fund.

(e) For purposes of taxation only, the trust into which the Fund is placed pursuant to this Article shall be deemed to be a charitable trust under the laws of the United States and the Republic of the Marshall Islands.

Article II

Distribution of Annual Proceeds

The Fund Manager shall disburse Annual Proceeds in accordance with Article III of this Agreement and as follows:

Section 1 - Health, Food, Agricultural Maintenance and Radiological Surveillance

(a) $30 million to the Government of the Marshall Islands, to be disbursed in annual amounts of $2 million for the 15-year period commencing one calendar quarter after the effective date of this Agreement. The Government of the Marshall Islands shall use these sums to obtain technical assistance, on a reimbursable basis, from the United States Public Health Service and other agencies of the Government of the United States. The Government of the United States shall provide such technical assistance including United States contractor services to assist the Government of the Marshall Islands to include, in its health-care system, health-care programs and services related to consequences of the Nuclear Testing Program and contemplated in United States Public Law 95-134 and United States Public Law 96-205. Such technical assistance shall be obtained in accordance with Section 226 of the Compact, the provisions of the Federal Programs and Services Agreement and such separate implementing agreements as may from time to time be concluded. Such technical assistance shall, at the request of the Government of the Marshall Islands, include a whole body counter and the training of its operator. The whole body counter shall be located in a suitable facility chosen and supplied by the Government of the Marshall Islands. The Technical assistance provided for in this subsection may include professional personnel services and dosimetry and bioassay services.

(b) Annual disbursements specified in this Section are in addition to the funds referred to in Sections 211(a)(3), 216(a)(2) and 221(b) of the Compact, which may also be expended by the Government of the Marshall Islands to provide its citizens with health-care programs and services elated to consequences of the Nuclear Testing Program.

(c) The Government of the Marshall Islands may dedicate any part of the annual disbursements specified in this Section to the financing, including matching financing, of other related healthcare and research programs and services of the Government of the United States which are otherwise available to the Government of the Marshall Islands.

(d) At the request of the Government of the Marshall Islands, the Government of the United States shall provide technical assistance, programs and services, on a reimbursable basis, to continue the planting and agricultural maintenance program on Enewetak and to continue the food programs of the Bikini people and the Enewetak people for as long as such technical assistance, programs and services may be required. Such technical assistance, programs and services shall be obtained in accordance with Section 226 of the Compact, the provisions of the Federal Programs and Services Agreement and such separate implementing agreements as may from time to time be concluded.

(e) $3 million to the Government of the Marshall Islands for the purpose of conducting medical surveillance and radiological monitoring activities, to be disbursed in average annual amounts of $1 million for the three-year period commencing on the effective date of this Agreement. The results of such medical surveillance and radiological monitoring activities shall be filed with the Claims Tribunal referred to in Article IV of this Agreement.

Section 2 - People of Bikini

$75 million to the Bikini Distribution Authority referred to in Article III of this Agreement, in payment of claims arising out of the Nuclear Testing Program for loss or damage to property and person of the people of Bikini, to be disbursed in quarterly amounts of $1.25 million for the 15-year period commencing one calendar quarter after the effective date of this Agreement, and which shall be distributed, placed in trust or otherwise invested as the Bikini Distribution Authority may determine consistent with this Agreement.

Section 3 - People of Enewetak

$48.75 million to the Enewetak Distribution Authority referred to in Article III of this Agreement, in payment of claims arising out of the Nuclear Testing Program for loss or damage to property and person of the people of Enewetak, to be disbursed in quarterly amounts of $812,500 for the 15-year period commencing one calendar quarter after the effective date of this Agreement, and which shall be distributed, placed in trust or otherwise invested as the Enewetak Distribution Authority may determine consistent with this Agreement.

Section 4 - People of Rongelap

$37.5 million to the Rongelap Distribution Authority referred to in Article III of this Agreement, in payment of claims arising out of the Nuclear Testing Program for loss or damage to property and person of the people of Rongelap, to be disbursed in quarterly amounts of $625,000 for the 15-year period commencing one calendar quarter after the effective date of this Agreement, and which shall be distributed, placed in trust or otherwise invested as the Rongelap Distribution Authority may determine consistent with this Agreement.

Section 5 - People of Utrik

$22.5 million to the Utrik Distribution Authority referred to in Article III of this Agreement, in payment of claims arising out of the Nuclear Testing Program for loss or damage to property and person of the people of Utrik, to be disbursed in quarterly amounts of $375,000 for the 15-year period commencing one calendar quarter after the effective date of this Agreement, and which shall be distributed, placed in trust or otherwise invested as the Utrik Distribution Authority may determine consistent with this Agreement.

Section 6 - Claims Adjudication Funds

(a) $500,000 to the Government of the Marshall Islands to provide for the establishment of the Claims Tribunal, to be disbursed prior to the first anniversary of the effective date of this Agreement.

(b) $500,000 annually to the Claims Tribunal during the term of its existence for its operation, to be disbursed in quarterly amounts of $125,000 commencing one calendar quarter after the first anniversary of the effective date of this Agreement.

(c) $45.75 million to be made available to the Claims Tribunal as necessary for whole or partial payment of monetary awards made by the Claims Tribunal pursuant to Article IV of this Agreement, to be disbursed in annual amounts of up to $2.25 million for the 3-year period commencing on the effective date of this Agreement, and in annual amounts of up to $3.25 million for the 12-year period commencing on the third anniversary of the effective date of this Agreement.

Section 7 - Other Disbursements

(a) In the event that Annual Proceeds are not sufficient to meet the disbursement schedules set forth in Sections 1 through 6 of this Article, disbursements shall be made from the Fund on an annual basis to supplement Annual Proceeds in the amount of the difference.

(b) All monetary awards made by the Claims Tribunal pursuant to Article IV of this Agreement shall be paid on an annual pro-rata basis from available funds until all such awards are paid in full. If, in any year, the annual amount made available pursuant to subsection 6(c) of this Article is not exhausted, the amount not required for that year shall remain in the Fund and shall be made available for disbursement in payment of monetary awards made by the Claims Tribunal in subsequent years.

(c) Commencing on the fifteenth anniversary of the effective date of this Agreement, not less than 75 percent of Annual Proceeds shall be available for disbursement in whole or partial payment of monetary awards made by the Claims Tribunal.

(d) Any Annual Proceeds which are not required for the disbursements set forth in Sections 1 through 6 and subsection 7(b) and 7(c) of this Article shall either be made a part of the Fund or be used by the Government of the Marshall Islands for other programs and services for the people of the Marshall Islands as their unique needs and circumstances resulting from the Nuclear Testing Program may require, including continuation of the technical assistance referred to in Section 1 of this Article, the operation of the Claims Tribunal, the survey and analysis of the radiological status of the Marshall Islands, and distributions to local government councils so that they may establish and maintain programs and services for their people as their unique needs and circumstances resulting from the Nuclear Testing Program may require.

Section 8 - Bikini, Enewetak, Rongelap and Utrik Trusts

In order to provide an additional long-term means to address consequences of the Nuclear Testing Program, the people of Bikini, Enewetak, Rongelap and Utrik shall each for their own benefit provide for the establishment of a trust funded with all or a portion of the Annual Proceeds they shall receive under this Agreement. Each trust shall be designed to provide a perpetual source of income for its respective recipients, and shall be developed in consultation with the Government of the Marshall Islands. The understandings reached shall, in consultation with the Government of the United States, be appended to this Agreement as Agreed Minutes. The establishment of each trust in accordance with the applicable Agreed Minute is a condition to disbursement of Annual Proceeds by the Fund Manager to the respective distribution authorities.

Article III

Distribution Authority

Section 1 - Designated Distribution Authorities

The local government council for Bikini/Kili, Enewetak/Ujelang, Rongelap and Utrik shall be the distribution authority for the people of Bikini, Enewetak, Rongelap and Utrik, respectively. Each distribution authority shall, as set forth in this Agreement, receive and distribute, invest, or otherwise expend Annual Proceeds.

Section 2 - Additional Distribution Authorities

The Claims Tribunal may, from time to time, establish additional distribution authorities as it deems appropriate and necessary to carry out the intent of this Agreement.

Section 3 - Disbursements and Recordation

(a) Distribution, investment and other expenditure of Annual Proceeds by a distribution authority shall be made in accordance with customary law and traditional practice of the Marshall Islands, the Constitution of the Republic of the Marshall Islands, and this Agreement.

(b) A distribution authority may assign its right to receive sums provided under this Agreement, provided that the assignment is consistent with this Agreement and provided that the distribution authority indemnifies and holds harmless the Fund Manager, the Government of the Marshall Islands and the Government of the United States for any claims arising from the assignment.

(c) Each distribution authority shall, for purposes of notification to the public and all interested parties regarding its determination and actions, deposit with the Claims Tribunal an accounting of its annual disbursements, within 120 days after the end of each Marshall Islands fiscal year. Such accounting shall include a list of the names of all individuals receiving payments and the amounts received, and state the amounts disbursed for every other purpose.

Article IV

Claims Adjudication Process

In furtherance of the desire of the Government of the Marshall Islands to provide an additional long-term means for compensating claims resulting from the Nuclear Testing Program:

Section 1 - Establishment and Operation of the Claims Tribunal

(a) The Government of the Marshall Islands, prior to the first anniversary of the effective date of this Agreement, shall establish a Claims Tribunal, in accordance with its constitutional processes and this Agreement. The Claims Tribunal shall have jurisdiction to render final determination upon all claims past, present and future, of the Government, citizens and nationals of the Marshall Islands which are based on, arise out of, or are in any way related to the Nuclear Testing Program, and disputes arising from distributions under Articles II and III of this Agreement. This section confers in the Claims Tribunal no jurisdiction over the United States, its agents, employees, contractors, citizens or nationals with respect to claims of the Government, citizens or nationals of the Marshall Islands arising out of the Nuclear Testing Program.

(b) In the exercise of its jurisdiction, the Claims Tribunal shall be independent of the legislative and executive powers of the Government of the Marshall Islands.

(c) The Claims Tribunal shall have power to issue writs and other processes, make rules and orders and promulgate other procedural regulations, not inconsistent with the laws of the Marshall Islands and this Agreement, as may be required. Such power shall include the authority to make orders for the attendance of witnesses with or without documents, and to make orders for the disposal of exhibits.

(d) Members of the Claims Tribunal shall be persons qualified by education, experience and character to discharge judicial office, shall hold office during good behavior for a set term of at least three years, and shall be appointed pursuant to procedures adopted by the Government of the Marshall Islands in accordance with its constitutional processes.

(e) A member of the Claims Tribunal may be removed from office only pursuant to procedures adopted by the Government of the Marshall Islands in accordance with its constitutional processes and only on the ground of clear failure or inability faithfully to discharge the duties of such office or for the commission of treason, bribery, or other high crimes or abuses inconsistent with the authority of his office.

(f) No member of the Claims Tribunal shall take part in the decision of a claim as to which he has a conflict of interest or the appearance of a conflict of interest.

(g) The compensation of a Claims Tribunal member shall not be changed during his term of office.

Section 2 - Awards and Costs of the Claims Adjudication Process

In making any award, the Claims Tribunal shall take into account the validity of the claim, any prior compensation made as a result of such claim and such other factors as it may deem appropriate. Costs of proceedings before the Claims Tribunal shall be a charge on Annual Proceeds, subject to determination of the Claims Tribunal, the laws of the Marshall Islands and distributions made under Sections 1 through 6 of Article II of this Agreement. Such costs shall also include the cost of defending the Fund.

Section 3 - Governing Law

In determining any legal issue, the Claims Tribunal may have reference to the laws of the Marshall Islands, including traditional law, to international law and, in the absence of domestic or international law, to the laws of the United States.

Article V

Tax Provisions

Section 1 - Exemption from United States Taxation

The sums provided for in Articles I and II of this Agreement, and any earnings derived therefrom, shall not be subject to any form of taxation by the United States or its political subdivisions to the extent that those sums and any earnings derived therefrom remain intact in an institution in the United States. Distribution of those sums and any earnings derived therefrom to individuals or other entities shall not be a transaction taxable by the Government of the United States, but, after distribution, the earnings of such distributed funds shall not be entitled to the tax exemption provided in this Section.

Section 2 - Exemption from Marshall Islands Taxation

The sums provided for in Articles I and II of this Agreement and any distribution of those sums shall not be subject to taxation by the Government of the Marshall Islands, but, after distribution to individuals or other entities, the earnings of such distributed funds shall not be entitled to the tax exemption provided in this Section.

Section 3 - Other Exemptions

The exemptions provided pursuant to Sections 1 and 2 of this Article are without prejudice to any exemptions otherwise applicable.

Article VI

Resettlement of Bikini Atoll and Conveyance of Property in respect to Bikini Atoll and Enewetak Atoll

Section 1 - Resettlement

The Government of the United States reaffirms its commitment to provide funds for the resettlement of Bikini Atoll by the people of Bikini at a time which cannot now be determined.

Section 2 - Bikini Sunken Vessels and Cable

Pursuant to Section 234 of the Compact, any rights, title and interest the Government of the United States may have to sunken vessels and cable situated in the Bikini lagoon as of the effective date of this Agreement is transferred to the Government of the Marshall Islands without reimbursement or transfer of funds. It is understood that unexpended ordnance and oil remains within the hulls of such sunken vessels, and that salvage or any other use of these vessels could be hazardous. By acceptance of such right, title and interest, the Government of the Marshall Islands shall hold harmless the Government of the United States from loss, damage and liability associated with such vessels, ordnance, oil and cable, including any loss, damage and liability that may result from salvage operations or other activity that the Government of the Marshall Islands or the people of Bikini take or cause to be taken concerning such vessels or cable. The Government of the Marshall Islands shall transfer, in accordance with its constitutional processes, title to such vessels and cable to the people of Bikini.

Section 3 - Enewetak Cable

Pursuant to Section 234 of the Compact, any right, title and interest the Government of the United States may have to cable situtated in the Enewetak lagoon as of the effective date of this Agreement shall vest in the Government of the Marshall Islands without reimbursement or transfer of funds. By acceptance of such right, title and interest, the Government of the Marshall Islands shall hold harmless the Government of the United States from loss, damage and liability associated with such cable and shall transfer, in accordance with its constitutional process, title to such cable to the people of Enewetak.

Article VII

Utilization of Lands

The Government of the United States is relieved of and has no responsibility for, and the Government of the Marshall Islands, consistent with its constitutional processes, shall have and exercise responsibility for, controlling the utilization of areas in the Marshall Islands affected by the Nuclear Testing Program. Assistance to the Government of the Marshall Islands from the Government of the United States in respect to the exercise of such responsibility by the Government of the Marshall Islands is set forth in full in this Agreement.

Article VIII

Northern Marshall Islands Radiological Survey

The Government of the United States has concluded that:

(a) The Northern Marshall Islands Radiological Survey and related environmental studies conducted by the Government of the United States represent the best effort of that Government accurately to evaluate and describe radiological conditions in the Marshall Islands; and

(b) The Northern Marshall Islands Radiological survey and related environmental studies have been made available to the Government of the Marshall Islands and can be used for the evaluation of the food chain and environment and estimating radiation-related health consequences of residing in the Northern Marshall Islands after 1978.

Article IX

Changed Circumstances

If loss or damage to property and person of the citizens of the Marshall Islands, resulting from the Nuclear Testing Program, arises or is discovered after the effective date of this Agreement, and such injuries were not and could not reasonably have been identified as of the effective date of this Agreement, and if such injuries render the provisions of this Agreement manifestly inadequate, the Government of the Marshall Islands may request that the Government of the United States provide for such injuries by submitting such a request to the Congress of the United States for its consideration. It is understood that this Article does not commit the Congress of the United States to authorize and appropriate funds.

Article X

Espousal

Section 1 - Full Settlement of All Claims

This Agreement constitutes the full settlement of all claims, past, present and future, of the Government, citizens and nationals of the Marshall Islands which are based upon, arise out of, or are in any way related to the Nuclear Testing Program, and which are against the United States, its agents employees, contractors and citizens and nationals, and of all claims for equitable or any other relief in connection with such claims including any of those claims which may be pending or which may be filed in any court or other judicial or administrative forum, including the courts of the Marshall Islands and the courts of the United States and its political subdivisions.

Section 2 - Termination of Legal Proceedings

The Government of the Marshall Islands shall terminate any legal proceedings in the courts of the Marshall Islands against the United States, its agents, employees, contractors and citizens and nationals, involving claims of the Government, citizens and nationals of the Marshall Islands, arising out of the Nuclear Testing Program and shall nullify all attachments or any judgments attained relating to such proceedings.

Article XI

Indemnity

Subject to Article IX, and in consideration for the payment of the amounts set forth in this Agreement, the Government of the Marshall Islands, on behalf of itself and its citizens and nationals, shall indemnify and hold harmless the United States, its agents, employees, contractors and citizens and nationals, from all claims set forth in Article X of this Agreement, and all actions or proceedings which may hereafter be asserted or brought by or on behalf of the Government of the Marshall Islands, its citizens and nationals, in any court or other judicial forum based on, arising out of or in any way related to the Nuclear Testing Program. The amount of such indemnification shall not, in the aggregate, exceed $150 million, and the Government of the Marshall Islands shall use or cause the Fund, or other sums available to it, to be used as necessary to cover or satisfy the indemnification set forth in this Article.

Article XII

United States Courts

All claims described in Articles X and XI of this Agreement shall be terminated. No court of the United States shall have jurisdiction to entertain such claims, and any such claims pending in the courts of the United States shall be dismissed.

Article XIII

Administrative Provisions

Section 1 - Effective Date

This Agreement shall come into effect simultaneously with the Compact in accordance with Section 177 of the Compact.

Section 2 - Implementation

The Government of the Marshall Islands shall take all necessary steps, of a general or particular character, to ensure the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement and the implementation of this Agreement in accordance with its terms.

Section 3 - Consultation

(a) The Government of the United States and the Government of the Marshall Islands shall consult at the request of either of them on matters relating to the provisions of this Agreement.

(b) The Government of the Marshall Islands may, from time to time, request from the Government of the United States assistance of an advisory nature with respect to the implementation of this Agreement, including the investment of the Fund in instruments of the Government of the United States and the establishment and operation of the Claims Tribunal. Such advisory assistance shall be provided in accordance with the provisions of Section 226 of the Compact.

Section 4 - Amendment

This Agreement may be amended at any time by mutual consent of the Government of the United States and the Government of the Marshall Islands.

Section 5 - Duration

This Agreement shall remain in full force and effect until terminated or otherwise amended by mutual consent.

Section 6 - Definitions

(a) The Definition of Terms set forth in Article VI of Title Four of the Compact is incorporated in this Agreement.

(b) The term "citizens and nationals" of the Marshall Islands or the United States, as the case may be, includes:

(1) a natural person who is a citizen of the Marshall Islands or the United States, and

(2) a corporation or other legal entity which is organized under the laws of the Marshall Islands or the United States or any of its states or territories, the District of Columbia or the Commonwealth of Puerto Rico.

Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this agreement which shall come into effect in accordance with its terms between the Government of the United States and the Government of the Marshall Islands.

DONE at Majuro, Marshall Islands, this 25th day of June, one thousand, nine hundred eighty-three.

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

- - - - -

FOR THE GOVERNMENT

OF

THE MARSHALL ISLANDS

Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association

Appendix A

To benefit and assist the people of the Marshall Islands with respect to consequences of the Nuclear Testing Program, the Government of the United States has provided assistance pursuant to the following statutes:

U.S. Public Law

- 88-485
- 94-34
- 94-367
- 95-26
- 95-74
- 95-134
- 95-348
- 95-465
- 96-126
- 96-205
- 96-514
- 96-597
- 97-100
- 97-257

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AGREED MINUTES

Article II - Distribution of Annual Proceeds, People of Bikini: It is the understanding of the Government of the United States and the Government of the Marshall Islands that:

(a) The people of Bikini, acting through their local government council (the Bikini Distribution Authority), shall create the Bikini Claims Trust Fund (Bikini Fund), and shall appoint as trustee and manager of the Bikini Fund (Bikini Fund Manager) a United States investment manager with substantial experience in the administration of trusts and with funds under management in excess of $250 million. The Bikini Fund shall be invested in accordance with the guidelines set forth in Article I, Section 2(c) of this Agreement. The Bikini Fund shall provide for:

(1) invasion of corpus only in the event of an unforeseen natural disaster or other similar circumstance making it necessary to distribute corpus in order to prevent hardship to the people of Bikini;

(2) maximum invasion of three percent of corpus; and

(3) invasion of corpus no more frequently than once every three years.

(b) The Bikini Fund Manager shall be the designated recipient of the sums referred to in Article II, Section 2 of this Agreement.

(c) The Bikini Fund Manager shall distribute $600,000 of the quarterly amounts of $1.25 million set forth in Article II, Section 2 of this Agreement to the Bikini Distribution Authority, which shall disburse said sums in accordance with Articles II and III of this Agreement. The Bikini Fund Manager shall place the remaining $650,000 of such quarterly amounts in trust in the corpus of the Bikini Fund.

(d) The Bikini Fund Manager shall reinvest 65 to 85 percent of income earned by the Bikini Fund for the 15-year period commencing one calendar quarter after the first anniversary of the effective date of this Agreement, and shall reinvest 30 to 85 percent of income earned by the Bikini Fund for the period beginning one calendar quarter after the fifteenth anniversary of the effective date of this Agreement.

Article II - Distribution of Annual Proceeds, People of Enewetak: It is the understanding of the Government of the United States and the Government of the Marshall Islands that:

(a) The people of Enewetak, acting through their local government council (the Enewetak Distribution Authority), may elect to assign the payments specified in Article II, Section 3, of this Agreement to a financial institution in the United States in return for an equivalent sum representing the present value of such payments. For the purpose of this Agreed Minute, it is assumed that the equivalent sum payment will amount to $25 million or more. Such amount shall be distributed as follows:

(1) $10 million for the payment of claims arising out of the Nuclear Testing Program;

(2) $10 million from which the Enewetak Distribution Authority shall create the Enewetak Claims Trust Fund (Enewetak Fund), and shall appoint as trustee and manager of the Enewetak Fund (Enewetak Fund Manager) a United States investment manager with substantial experience in the administration of trusts and with funds under management in excess of $250 million. The Enewetak Fund shall be invested in accordance with the guidelines set forth in Article I, Section 2(c) of this Agreement. The Enewetak Fund Manager shall be the designated recipient of the sums referred to in Article II, Section 3 of this Agreement. Twenty to thirty percent of the income derived from the Enewetak Fund shall be added to the corpus of the Enewetak Fund each year, and the remainder distributed to those persons who are qualified, by traditional law and custom, to share in the payment for the claims arising out of the Nuclear Testing Program in accordance with a formula established by the Enewetak Distribution Authority consistent with this Agreement. The Enewetak Fund shall provide for:

i. invasion of corpus only in the event of an unforeseen natural disaster or other similar circumstance making it necessary to distribute corpus in order to prevent hardship to the people of Enewetak;

ii. maximum invasion of three percent of corpus; and

iii. invasion of corpus no more frequently than once every three years.

(3) $5 million to establish a trust, the income of which shall be used to continue the agricultural maintenance and food supplement programs now administered by the Government of the United States. The agricultural maintenance and food supplement trust shall continue until such time as the food supplement program is no longer necessary to ensure an adequate supply of food for the residents of Enewetak. In making this determination, the Enewetak Distribution Authority shall take into account the production of local foods, the availability of food from Ujelang, and the ability of members of the community to obtain imported foodstuffs. At that time, the Enewetak Distribution Authority may reduce or terminate the agricultural maintenance and food supplement program and use the principal and accumulated income for the payment of claims, as an addition to the Enewetak Fund, or for such other community purposes as the Enewetak Distribution Authority shall determine.

(b) In the event that the Enewetak Distribution Authority elects not to assign the payments for an equivalent sum payment as set forth in this Agreed Minute, then the payments provided for in Article II, Section 3 of this Agreement shall be paid to the people of Enewetak in the same manner, and invested and distributed in the same manner and in the same proportions, as the payments set forth in Article II, Section 2 of this Agreement.

Article II - Distribution of Annual Proceeds, People of Rongelap: (to be determined in consultation with the people of Rongelap in accordance with Section 8 of Article II of this Agreement).

Article II - Distribution of Annual Proceeds, People of Utrik: (to be determined in consultation with the people of Utrik in accordance with Section 8 of Article II of this Agreement).

Article II - Distribution of Annual Proceeds: All trusts created by the Distribution Authorities shall be established so as to provide a perpetual source of income for eligible recipients provided, however, that the creation of such trusts shall be consistent with the Rule Against Perpetuities.

Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association

Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association

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Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association

This Agreement sets forth the military use and operating rights of the Government of the United States in the Marshall Islands, and is concluded pursuant to Sections 321 and 323, Title Three of the Compact of Free Association (the Compact).

Article I

Definitions

The Definition of Terms set forth in Article VI of Title Four of the Compact and the Definitions set forth in paragraph 2 of Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact (the Status of Forces Agreement) are incorporated in this Agreement.

Article II

Applicability of Status of Forces Agreement

The provisions of the Status of Forces Agreement shall apply.

Article III

Provision of Defense Sites

The Government of the Marshall Islands shall provide to the Government of the United States the defense sites identified in Annex A to this Agreement. Specific arrangements for the establishment and use by the Government of the United States of defense sites in addition to those set forth in Annex A shall be in accordance with Section 321 of the Compact.

Article IV

General Military Use and Operating Rights

1. Consistent with Section 352 of the Compact, the Government of the United States has free access to and unrestricted control of the defense sites, including the right to control entry to and exit from any or all defense sites and the right to take necessary measures for their establishment, use and operation. The Government of the United States may take, within the defense sites and within the seabeds, water areas and air space adjacent to or in the vicinity of the defense sites, such measures as are necessary for the use, security and defense of the defense sites. These measures include the right:

(a) To maintain the defense sites and to construct structures and improvements thereon;

(b) To improve and deepen the harbors, channels, entrances, and anchorages, to dredge and fill and generally to fit the premises to their intended use;

(c) To control anchorages and moorings adjacent to or within the vicinity of the defense sites, and movements of ships and waterborne craft, to, from and within the defense sites;

(d) Subject to the provisions of paragraph 2 of Article V of this Agreement, to control aircraft operations to, from and within the defense sites and to control aircraft movement in the air space adjacent to or in the vicinity of the defense sites;

(e) To regulate and control all official communications of the Government of the United States and its contractors to, from and within the defense sites subject to the separate agreement between the Government of the United States and the Government of the Marshall Islands on communications referred to in Article III of Title One of the Compact;

(f) To prevent interference from any source whatsoever with all official communications of the Government of the United States and its contractors;

(g) To install, maintain, use and operate defense-related oceanographic, aeronautical, space communications, and other military or scientific systems and equipment; and

(h) To advise and assist, by means of visual and radio vectoring, safe passage of ships and aircraft through areas made hazardous by periodic missile and other test operations after, or concurrent with, notification to the Government of the Marshall Islands.

2. In conducting its activities in the defense sites, the Government of the United States shall use its best efforts to:

(a) Avoid interference with commercial activities including the exploitation of living and non-living resources of the sea;

(b) Avoid interference with navigation, aviation, communication and land or water travel in the Marshall Islands;

(c) Minimize damage to the terrain and to reef areas;

(d) Avoid harm to the environment, including water areas;

(e) Avoid activities which would adversely affect the well-being of the residents of the Marshall Islands; and

(f) Notify the Government of the Marshall Islands of non-routine activities so that the Government of the Marshall Islands may take steps to assist the Government of the United States in executing its responsibilities to minimize any adverse impact of such activities.

3. In order not to interfere with operation of the defense sites or pose safety hazards to individuals in the area, the Mid-Atoll Corridor area defined in Annex A, except for the islands of Meck, Eniwetak, Omelek, Gellinam, Gagan, Illeginni and Legan, is a closed area except when the Government of the United States announces that the Mid-Atoll Corridor area is temporarily open.

4. The Government of the United States may invite members of the armed forces of other countries to use defense sites pursuant to this Agreement, in conjunction with and under the control of the United States Armed Forces. Use by units of the armed forces of other countries of such defense sites, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval by the Government of the Marshall Islands.

5. The provisions of Section 173 of the Compact are incorporated by reference into, and become a part of, this Agreement. The Signatory Governments may, from time to time, consult regarding the implementation of this paragraph.

Article V

Shipping and Aviation

1. The Government of the United States may place or establish in the defense sites and the water areas adjacent thereto or in the vicinity thereof, lights and other fixed and floating aids to navigation of vessels and aircraft necessary for operations pursuant to this Agreement. The Government of the United States shall consult with the Government of the Marshall Islands on the position or characteristics of and any alterations to such aids to navigation.

2. Aircraft owned or operated by the Government of the Marshall Islands shall have access to and use of the airfield and related facilities located on the Kwajalein Island defense site, subject to United States military requirements. The Government of the United States shall give sympathetic consideration to requests by the Government of the Marshall Islands for access to and use of this airfield and related facilities by other aircraft. This access and use shall be subject to agreement between the Government of the United States and the Government of the Marshall Islands. Aircraft may also land at other defense sites with the prior consent of the Government of the United States.

Article VI

Law Enforcement

Regularly constituted military units of the Armed Forces of the United States and civilian security guards of the Armed Forces of the United States or security personnel under contract to the Government of the United States shall have the right to police the defense sites, and may take all appropriate measures to ensure the maintenance of law and order in the defense sites. United States military police or civilian security guards shall not be used outside the defense sites for law enforcement purposes, except as may be agreed with the Government of the Marshall Islands.

Article VII

Community Relations Council

The Government of the Marshall Islands and the Government of the United States shall each designate representatives to a Community Relations Council, the purpose of which will be to identify and consider all matters affecting relations between the defense sites and local Marshallese communities and to recommend actions as appropriate.

Article VIII

Employment of Labor

1. In the employment of local hire personnel the Armed Forces of the United States and United States contractors shall comply with laws of general applicability in the Marshall Islands regarding minimum wages, provided that such minimum wages do not exceed the minimum wage prevailing in the United States.

2. In the employment of local hire personnel, the Armed Forces of the United States and United States contractors shall provide equal pay for equal work.

3. The wages of local hire personnel who are in the employment of the Armed Forces of the United States or United States contractors as of the effective date of this Agreement shall not be reduced by reason of the cessation of the applicability of United States law in the Marshall Islands as of the effective date of the Compact.

4. The Government of the United States and the Government of the Marshall Islands shall consult with regard to the creation of training projects designed to provide for greater utilization of local hire personnel and to improve their job skills.

Article IX

Miscellaneous

1. All minerals, including oil, antiquities and treasure trove in a defense site and all rights relating thereto are reserved to the Government of the Marshall Islands, but any exploitation thereof shall require the prior concurrence of the Government of the United States.

2. Section 351 of the Compact as between the Government of the United States and the Government of the Marshall Islands is incorporated by reference into, and becomes a part of this Agreement. Unless otherwise provided, all issues or disputes that may arise under this Agreement which cannot be resolved locally shall be referred to the Joint Committee established by Section 351 and resolved in accordance with that Section.

3. The Government of the United States, pursuant to Section 234 of the Compact, transfers title to the Prinz Eugen, the former German warship now located in the Kwajalein Atoll area, to the Government of the Marshall Islands. It is understood that unexpended ordnance and oil remains within the hull of the Prinz Eugen, and that salvage or any other use of the ship could be hazardous. The Government of the Marshall Islands shall hold the Government of the United States harmless for any loss, damage or liability associated with the Prinz Eugen, including any loss, damage or liability that may result from any salvage operation or any other activity that the Government of the Marshall Islands takes or causes to be taken concerning the Prinz Eugen. Any such operation or activity undertaken by or on behalf of the Government of the Marshall Islands shall be conducted at a time and in a manner to be agreed to between the Government of the United States and the Government of the Marshall Islands so as not to interfere with the operation of the defense sites.

4. Consistent with the laws and regulations of the United States, and to the extent that emergency medical services can be made available, the Government of the United States at its Kwajalein Island defense site contractor-operated medical facility shall undertake to provide such emergency services to citizens and nationals of the Marshall Islands on a reimbursable basis under terms and conditions agreed upon between the Signatory Governments.

Article X

Economic Assistance, Effective Date, Amendment and Duration

1. This Agreement shall come into effect simultaneously with the Compact.

2. This Agreement may be amended or terminated at any time by mutual consent.

3. This Agreement shall remain in effect for an initial term of fifteen years. The Government of the United States shall have the right to extend this Agreement for fifteen additional years beyond the initial term.

a. For this extension, the Government of the United States shall provide to the Government of the Marshall Islands, on a grant basis, the sum of $2.5 million after the fifteenth anniversary and prior to the sixteenth anniversary of the effective date of this Agreement. This payment shall be made whether or not the Government of the United States elects to exercise this option and is an obligation which is not subject to termination.

b. Not later than the thirteenth anniversary of the effective date of this Agreement, the Government of the United States shall elect whether to exercise this extension. Such election shall be made in writing to the Government of the Marshall Islands.

4. If the Government of the United States elects to exercise the extension set forth in paragraph 3 of this Article, the Government of the United States shall provide to the Government of the Marshall Islands an annual grant payment, commencing on the fifteenth anniversary of the effective date of this Agreement and continuing for each subsequent year that this Agreement remains in effect. This annual payment is to be made as follows:

a. In reaffirmation of its continuing interest in promoting the long-term economic advancement and self-sufficiency of all the people of the Marshall Islands, the amount of $7.1 million adjusted in accordance with the formula specified in Section 217 of the Compact.

b. A fixed amount of $1.9 million.

c. If the additional two-year period of negotiation contemplated pursuant to Section 231 of the Compact is in effect between the fifteenth and seventeenth anniversaries of the effective date of this Agreement, the annual payments specified in paragraphs 4(a) and 4(b) shall not be paid, in order that the payments otherwise made in accordance with Section 231 of the Compact shall not be duplicated.

5. The Government of the United States may terminate this Agreement upon the date of expiration of the initial term of this Agreement.

10/20/82

10/20/82

6. In addition to the provisions of paragraph 5 of this Article, the Government of the United States may terminate this Agreement at any other time during the extension period by giving written notice, not later than two years prior to the date it intends to terminate, of its intention to terminate. Upon termination pursuant to this paragraph, the Government of the United States shall make a termination payment to the Government of the Marshall Islands which shall be computed by multiplying, by a factor of two, the payment due the Government of the Marshall Islands pursuant to paragraph 4(a) and 4(b) of this Article the year that termination is to take effect. Such termination payment shall be in addition to the annual payment made during the year of termination. If this Agreement is terminated pursuant to paragraph 5 of this Article, no termination payment shall be made.

7. The assistance the Government of the United States provides the Government of the Marshall Islands pursuant to this Agreement is to ameliorate any adverse impact on economic and social conditions throughout the Marshall Islands of the activities of the Government of the United States in the area of the defense sites. The Government of the Marshall Islands shall initiate projects utilizing the funds provided under paragraph 4(b) of this Article to this end.

a. The Government of the Marshall Islands shall consult with the Government of the United States on the status of these projects.

b. After consultation, the Government of the United States shall provide such technical and planning assistance to the Government of the Marshall Islands in its implementation of such projects as is mutually agreed.

8. Pursuant to Sections 224 and 226 of the Compact the Government of the United States shall, during the initial term of this Agreement, work closely with the Government of the Marshall Islands in developing plans and programs to reduce any adverse social and economic impact of United States defense activities in the Marshall Islands, and will seek to provide, within existing resources, technical assistance required for the implementation of these plans and programs. In addition, the United States is prepared to seek, on a matching basis to be determined by mutual agreement, priority funding to ameliorate any adverse impact caused by changes in defense programs.

9. The Government of the United States and the Government of the Marshall Islands may from time to time enter into contractual arrangements pursuant to Section 323 of the Compact. Such arrangements may include reimbursable services provided by the Government of the United States to the Government of the Marshall Islands. The Armed Forces of the United States may furnish such services provided that payment for reimbursable services is made in accordance with the terms of such contractual arrangements.

IN WITNESS WHEREOF, the undersigned, duly authorized for the purposes, have signed the present agreement.

DONE at WASHINGTON, D.C., in duplicate, this 24th day of MAY, one thousand nine hundred eighty-two.

FOR THE GOVERNMENT OF THE UNITED STATES:

FOR THE GOVERNMENT OF THE MARSHALL ISLANDS:

June 25

June 25 1983

Agreement Regarding the
Military Use and Operating Rights
of the Government of the United States in
the Marshall Islands
Concluded Pursuant to Sections 321 and 323 of the
Compact of Free Association

AGREED MINUTES

Article IX, Miscellaneous paragraph 1: It is the understanding of the Government of the United States and the Government of the Marshall Islands that paragraph 1 of Article IX of this Agreement shall be implemented in a manner consistent with the Constitution of the Marshall Islands and shall not be interpreted as impairing, limiting or altering any rights or interests in mineral rights, or the benefits derived from exploitation thereof, as established by or arising under the Marshall Islands Constitution.

Article X, Economic Assistance, Effective Date and Duration, paragraph 9: It is the understanding of the Signatory Governments that contractual arrangements for provision of reimbursable services pursuant to paragraph 9 of Article X of this Agreement may include, in addition to services, provision of such supplies and equipment, on a reimbursable basis, as may be mutually agreed. The Government of the United States and the Government of the Marshall Islands shall consult prior to the effective date of this Agreement with regard to the continuation of services being provided by the Department of Defense to the Government of the Marshall Islands or the inhabitants of Kwajalein Atoll, including provision of office space and accommodations for persons on official business of the Government of the Marshall Islands.

Article IV, General Military Use and Operating Rights, paragraph 3: Except for Meck, Illeginni, Gagan and Legan, the islands of the Mid-Atoll Corridor shall be open to visitation during three six-week periods each calendar year. Notice of these periods shall be given to the Government of the Republic of the Marshall Islands in a timely manner. The Commander, Kwajalein Missile Range shall designate these periods, and shall establish the basis for visitation to Omelek, Gellinam and Eniwetak Islands. This basis shall include temporary habitation by up to 19 persons on Omelek, who can fish from Gellinam and Eniwetak. Consistent with United States activities, on Eniwetak, the Commander, Kwajalein Missile Range shall allow temporary habitation on that islands as well. The Signatory Governments may, from time-to-time, consult regarding such modifications to visitation arrangements as may be mutually agreed.

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Annex A

Defense Sites Provided by the Government of the Marshall Islands Pursuant to Article III

1. The Government of the Marshall Islands shall provide to the United States the following land areas. The Government of the United States may, upon request of the Government of the Marshall Islands, grant limited access to these areas.

(a) Outside Mid-Atoll Corridor

Island	Approximate Acreage
Kwajalein	748 (Includes 205 acres landfill constructed by U.S. Government)
Roi-Namur	398 (Includes 40 acres landfill constructed by U.S. Government)
Ennugarret	6 (of 24 total acres)
Ennylabegan	71 (of 124 total acres)

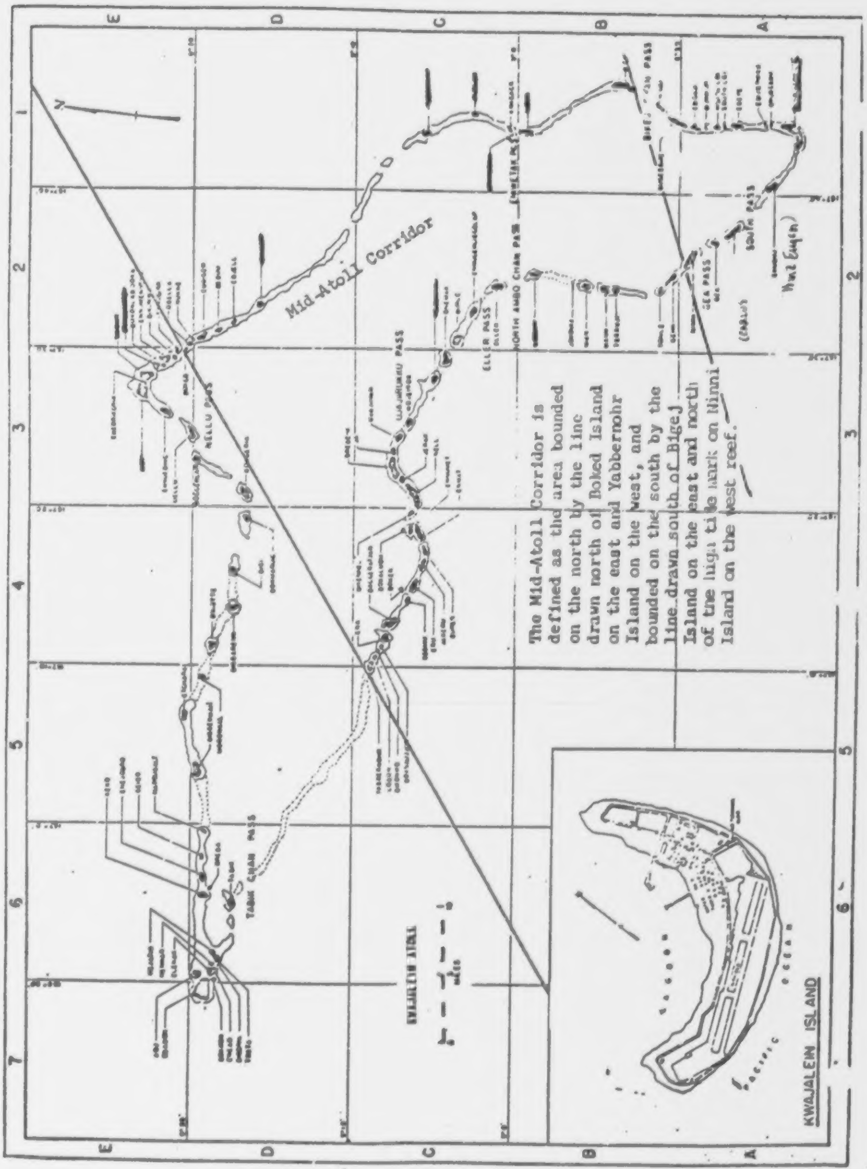
(b) Within the Mid-Atoll Corridor

Island	Approximate Acreage
Meck	55 (Includes 18 acres landfill constructed by U.S. Government)
Eniwetak	15
Omelek	8
Gellinam	5
Gagan	6
Illeginni	31
Legan	18

2. The Government of the United States shall have control of entry and movement of personnel within the Mid-Atoll Corridor Area of the Kwajalein Atoll.

(a) The Mid-Atoll Corridor is defined as the area within the Kwajalein Atoll bounded on the north by a line drawn north of Boked Island on the east reef and Yabbernohr Island on the west reef and bounded on the south by the line drawn south of Bigej Island on the east reef and north of the high tide mark on Ninni Island on the west reef. A map of the area is attached as Annex B.

(b) The boundary lines, as stated above and as set out in the map attached as Annex B, shall be redrawn when the Government of the United States determines that the area needed for the safe operation of the defense sites can be reduced from that currently utilized. If the boundary lines are redrawn, the islands then outside the Mid-Atoll Corridor area, except those islands listed in paragraph 1 of this Annex, shall be relinquished.


Mid-Atoll Corridor
NELLU PASS
TABIK CHAN PASS
ELLER PASS
NORTH AMBO CHAN PASS
GEA PASS
SOUTH PASS
KWAJALEIN ATOLL
KWAJALEIN ISLAND
LAGOON
PACIFIC OCEAN
A
B
C
D
E
1
2
3
4
5
6
7

The Mid-Atoll Corridor is defined as the area bounded on the north by the line drawn north of Boked Island on the east and Yabbernohr Island on the west, and bounded on the south by the line drawn south of Bigej Island on the east and north of the high tide mark on Ninni Island on the west reef.

Annex B

Agreement Between
The Government of the United States
and
The Government of the Marshall Islands
Regarding Mutual Security
Concluded Pursuant to Sections 321 and 323 of
The Compact of Free Association

Agreement Between
The Government of the United States
and
The Government of the Marshall Islands
Regarding Mutual Security
Concluded Pursuant to Sections 321 and 323 of
The Compact of Free Association

PREAMBLE

The Government of the United States and the Government of the Marshall Islands:

Reaffirming their desire to live in peace with all peoples and all governments and their desire to strengthen and support the cause of peace in the Pacific area;

Desiring to declare publicly and formally their common purpose, so that no potential aggressor can assume that either of them stands alone in the Pacific area;

Mindful that the Government of the United States and the Government of the Marshall Islands, in the exercise of their respective capacities for the conduct of foreign affairs, have entered and do enter into agreements which are implemented in accordance with their respective constitutional processes; and

Reaffirming the purposes and principles of the Compact of Free Association;

NOW THEREFORE AGREE:

ARTICLE I

The Government of the United States and the Government of the Marshall Islands rededicate themselves to the principle that any international disputes in which they may be involved shall be settled by peaceful means and in such a manner that international peace, security and justice are not endangered.

ARTICLE II

The Government of the United States and the Government of the Marshall Islands shall consult at the request of either Government, whenever the political independence of either of them or their mutual security is threatened in the Pacific.

ARTICLE III

The government of the United States and the Government of the Marshall Islands recognize that, in view of the special relationship between their peoples, any attack on the Marshall Islands would constitute a threat to the peace and security of the Pacific area and a danger to the United States. In the event of such an attack or the threat thereof, the Government of the United States would take action to meet the danger to the United States and the Marshall Islands in accordance with its constitutional processes.

ARTICLE IV

a. If the Government of the United States determines that any third country seeks access to or use of the Marshall Islands by military personnel or for military purposes, the Government of the United States has the authority and responsibility to foreclose such access or use, except in instances where, following the consultations referred to in paragraph b. of this Article, the two governments otherwise agree. The Government of the United States shall exercise such authority and responsibility in accordance with its constitutional processes.

b. The Government of the Marshall Islands, in recognition of the obligations undertaken by the Government of the United States in this Article and in Article III of this Agreement, shall consult with the Government of the United States in the event a third country seeks such access or use.

ARTICLE V

The Government of the United States and the Government of the Marshall Islands recognize that sustained economic advancement is a necessary contributing element to the attainment of the mutual security goals expressed in this Agreement. The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the people of the Marshall Islands.

ARTICLE VI

In order to give effect to their undertakings in this Agreement entered into pursuant to Sections 321, 323 and 454 of the Compact of Free Association:

a. The Government of the Marshall Islands recognizes that this Agreement contains international treaty obligations which shall be implemented in a manner consistent with the Constitution of the Marshall Islands; and

b. The Government of the United States recognizes that this Agreement is an Executive Agreement of the United States and shall execute it in accordance with its constitutional processes.

ARTICLE VII

This Agreement shall come into effect upon the expiration or termination of Title Three of the Compact of Free Association.

ARTICLE VIII

This Agreement shall remain in full force and effect until terminated or otherwise amended by mutual consent.

ARTICLE IX

The Definition of Terms set forth in Article VI of Title Four of the Compact are incorporated in this Agreement.

IN WITNESS WHEREOF, the undersigned, duly authorized for the purpose, have signed the present agreement.

DONE at WASHINGTON, D.C., in duplicate, this 24th, day of MAY, nineteen hundred and eighty-two.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE MARSHALL ISLANDS:

Agreement Regarding the
Military Use and Operating Rights
# of the Government of the United States in
the Federated States of Micronesia
Concluded Pursuant to Sections 227, 321 and 323 of
the Compact of Free Association

Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 227, 321 and 323 of the Compact of Free Association

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Annex A.........The United States Coast Guard Sites

Annex B.........Military Civic Action Teams

Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 227, 321 and 323 of the Compact of Free Association

This Agreement sets forth:

(a) The conditions under which the Government of the United States shall make available the services of Military Civic Action Teams to the Government of the Federated States of Micronesia pursuant to Section 227, Title Two, of the Compact of Free Association (the Compact); and

(b) The military use and operating rights of the Government of the United States in the Federated States of Micronesia pursuant to Sections 321 and 323, Title Three, of the Compact.

Article I

Definitions

1. The Definition of Terms set forth in Article VI of Title Four of the Compact and the Definitions set forth in paragraph 2 of Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact (the Status of Forces Agreement) are incorporated in this Agreement.

2. For the purpose of this Agreement only, the following terms shall have the following meanings:

(a) "Civic Action Team (CAT)" -- is a unit consisting of members of the force which is specifically organized to undertake civic action and community development projects.

(b) "CAT Base Camp" -- is a "defense site" as set forth in paragraph 2(f) of Article I of the Status of Forces Agreement. A CAT work site, however, is not a "defense site".

2-1

Article II

Applicability of Status of Forces Agreement

The provisions of the Status of Forces Agreement shall apply.

Article III

Provision of Defense Sites

1. The Government of the Federated States of Micronesia shall provide to the Government of the United States the defense sites identified in Annexes A and B to this Agreement.

(a) The provision of defense sites shall include all the necessary land and use rights for such sites, rights of access thereto, and road, pipeline and powerline easements as may be required.

(b) Any rent or other use charges or other consideration to owners of the lands in the defense sites shall be as provided in this Agreement. Such payments shall be made by the Government of the United States to the Government of the Federated States of Micronesia on behalf of its citizens.

(c) In consideration of the use of the defense sites identified in Annex A to this Agreement, the Government of the United States shall provide the sum specified in Section 213(c) of the Compact.

2. Specific arrangements for establishment and use by the Government of the United States of defense sites in addition to those set forth in Annexes A and B to this Agreement shall be between the Governments of the United States and the Federated States of Micronesia in accordance with Section 321 of the Compact.

3. The Government of the United States affirms that it has no present need for or present intention to seek the use of defense sites other than those identified in Annexes A and B of this Agreement.

4. The Government of the United States shall notify the Government of the Federated States of Micronesia when it no longer has a requirement to retain any of the defense sites, or portions thereof, designated in this Agreement. Such defense sites, or portions thereof, shall then revert to the full and complete control of the Government of the Federated States of Micronesia for disposition to their lawful owners as determined by the Government of the Federated States of Micronesia in accordance with its constitutional processes.

Article IV

General Military Use and Operating Rights

1. Consistent with Section 352 of the Compact, the Government of the United States has free access to and unrestricted control of the defense sites, including the right to control entry to and exit from any or all defense sites and the right to take necessary measures for their establishment, use and operation. The Government of the United States may take, within the defense sites and within the seabeds, water areas and air space adjacent to or in the vicinity of the defense sites, such measures as are necessary for their use, security and defense. These measures include the right:

(a) To maintain the defense sites and to construct structures and improvements thereon;

(b) To improve and deepen the harbors, channels, entrances, and anchorages, to dredge and fill, and generally to fit the premises to their intended use;

(c) To control anchorages and moorings, the movements of ships and waterborne craft, aircraft operations and land movements;

(d) To regulate and control all communications of the Government of the United States to, from and within the defense sites; and

(e) To install, maintain, use and operate defense-related oceanographic, aeronautical, space communications, and other military or scientific systems and equipment.

2. In conducting activities pursuant to paragraph 1 of this Article, the Government of the United States shall use its best efforts to:

(a) Avoid interference with commercial activities in the Federated States of Micronesia;

(b) Avoid interference with access by fishermen to shoreline areas;

(c) Avoid interference with navigation, aviation, communication and land or water travel in the Federated States of Micronesia;

(d) Avoid impeding access to recreational areas, particularly beach areas, by residents of and visitors to the Federated States of Micronesia;

(e) Minimize damage to the terrain and to reef areas;

(f) Avoid harm to the environment, including water areas;

(g) Avoid activities which would adversely affect the well-being of the residents of the Federated States of Micronesia; and

(h) Notify the Government of the Federated States of Micronesia of non-routine activities so that the Government of the Federated States of Micronesia may take steps to assist the Government of the United States in executing its responsibilities to minimize any adverse impact of such activities.

Article V

Aids to Navigation

The Government of the United States shall place or establish and maintain in the defense sites and the water areas adjacent thereto or in the vicinity thereof, lights and other fixed and floating aids to navigation of vessels and aircraft necessary for operations pursuant to this Agreement. The Government of the United States shall consult with the Government of the Federated States of Micronesia on the position or characteristics of and any alterations to such aids to navigation.

Article VI

Community Relations Council

The Government of the United States and the Government of the Federated States of Micronesia may each designate representatives to a Community Relations Council whose purpose will be to identify and consider all matters affecting relations between the Defense Site Commander and local Federated States of Micronesia communities and to recommend actions as appropriate.

Article VII

Miscellaneous

1. No proprietary rights to minerals, including oil, antiquities and treasure trove in a defense site, nor rights relating thereto pass to the Government of the United States by virtue of this agreement but any exploitation thereof shall require the prior concurrence of the Government of the United States.

2. Unless otherwise provided, all issues or disputes that may arise under this Agreement which cannot be resolved locally shall be referred for resolution to the Joint Committee established pursuant to Section 351 of the Compact.

3. In the event of an emergency the Government of the United States, consistent with military requirements, shall make available to the Government of the Federated States of Micronesia, on a cost-reimburseable basis, military fuels and oils.

4. The Government of the United States may station in the Federated States of Micronesia United States personnel required in its use of the defense sites authorized under this Agreement. Except for United States personnel stationed in the Federated States of Micronesia pursuant to this Agreement, or limited numbers of United States personnel in the Federated States of Micronesia on official duty in connection with naval port visits, aircraft transits or other temporary duty, the Government of the United States shall not establish in the Federated States of Micronesia a formal rest, relaxation or recuperation program, without the consent of the Government of the Federated States of Micronesia.

5. The Government of the United States shall not use nuclear power plants or reactors in the Federated States of Micronesia, except on military ships and vessels under the ownership or control of the Government of the United States.

6. The waste disposal area located on the Defense Site identified in Annex A shall be closed in accordance with the provisions of Article X, paragraph 2 of the Status of Forces Agreement.

7. Consistent with Article V, paragraph 7 of the Status of Forces Agreement and Article II of this Agreement, the Designated Representatives of the Signatory Governments shall enter into agreed arrangements regarding notice and taxation of major transfers of personal property by United States personnel to non-tax exempt persons in the Federated States of Micronesia.

Article VIII

Effective Date, Amendment and Duration

1. This Agreement shall come into effect simultaneously with the Compact.

2. This Agreement may be amended at any time by the mutual consent of the Government of the Federated States of Micronesia and the Government of the United States.

3. Except as specified in paragraph 4 below, this Agreement shall remain in full force and effect for an initial term of 15 years and thereafter as mutually agreed.

4. Article III, paragraph 1(c) and Annex A of this Agreement shall:

(a) remain in full force and effect until the end of calendar year 1992; and

(b) be extended thereafter by mutual agreement.

5. If the Government of the United States should decide to vacate the defense site identified in Annex A to this Agreement prior to December 31, 1992, the Government of the United States will notify the Government of the Federated States of Micronesia of its decision at least 12 months in advance of such vacation date.

6. If the Government of the United States determines that it will have a need for the use of the defense sites identified in Annex A of this Agreement beyond December 31, 1992, the Government of the United States will notify the Government of the Federated States of Micronesia of its determination at least 12 months in advance of such date.

Annex A

The United States Coast Guard Sites

This Annex identifies the defense sites for use by the United States Coast Guard on Yap in the Federated States of Micronesia. The Governments of the United States and the Federated States of Micronesia assume no responsibility for any Government-to-Government agreements, entered into prior to the effective date of this Agreement, concerning said sites, written or otherwise, except for those agreements in Appendices 3 and 4 to this Annex, which become a part of this Agreement. The United States Coast Guard sites are as follows:

1. Exclusive-use areas - areas which are reserved exclusively for use by the Government of the United States:

a. Parcel 1 -- Loran Station: The exclusive-use of lands herein more particularly described as follows:

Beginning at concrete marker 'A' which bears 90°-47'-11" true and 1782.82 feet from C-ANT which is a Coast Guard bronze disk set on top of a 2 inch O.D. galvanized pipe that is 14 inches above the natural ground;

Thence: 336°-55'-00", 1419.42 feet to concrete marker 'B',
Thence: 291°-43'-00", 2771.64 feet to concrete marker 'C',
Thence: 223°-39'-00", 2006.13 feet to concrete marker 'D',
Thence: 127°-30'-00", 3565.67 feet to concrete marker 'E',
Thence: 052°-35'-00", 2124.47 feet to concrete marker 'A',

which is the true point of beginning, comprising an area of 205.227 acres more or less, on the island of Gagil-Tomil, Yap State, Federated States of Micronesia. Azimuths are based on true bearing of C-ANT to W-4 being 060°-53'-00", as established by U.S. Coast Guard Survey of 2-2-63. A representative map is attached as Appendix 1. A more definitive representation may be substituted in the future if necessary.

b. Parcel 2 -- Fuel Pipe Line:

(1) An easement and right of way including the right to enter at any time that it may see fit, for the folowing purposes, namely:

(a) To construct, maintain, rebuild, repair, operate, remove and inspect undergound and aboveground pipelines, mains, and pumps for the purpose of conveying gasoline, oil and other petroleum products, on, over, across and through said lands, said pipeline to be located as shown in Appendix 1;

(b) To pass and repass, with full and free right and liberty at all times, with or without vehicles, for any purpose whatsoever, on, over, across, and through said lands; and

(c) To remove trees, bushes, undergrowth, buildings, fire hazards and other obstructions interfering with full use and enjoyment of the rights granted above.

(2) Said easement and right of way covering a strip of land thirty-four feet wide, more or less, through those lands located in Tomil and Gagil, Yap State, herein more particularly described as follows:

Being all those portions of land in the vicinity of the road going from the Loran Station property to the Tomil road intersection, thence going south to the Tomilang School intersection, thence going west to the Tomil Harbor shore, and known as Wichigral, Maawech, and Bilewachgey in Gagil Municipality, and Bilewachgey, Teldou, Gacham, Liyeg, Matheno, Tamilal, Tagil Pirun'uw, Dachiyio'r, Dadoochoch, Fubuy, Fubuyub, Tariya', Damachbuw', Peep'uw, Danag, Paat'nuy, Yey, Torrolul, Belegurgur, Gubor, Ge'mem, Gilang, Werme, Tagayel, Giring, Tabnifiy, Michfith, Rifin, Magif, Pangalif, Falang, Laly, Tablau, Tablag, Fannger, Mo'ur'r, Lanmoot', Tawoyang and Daken-e-do'' in Tomil Municipality, containing an area of 14.25 acres, more or less, and described more fully by metes and bounds as shown on Yap District Map No. Y-LTROW-1, Sheets 1 though 6, dated February 7, 1968, and filed in the Office of the Clerk of Courts, Yap District, on February 9, 1968. A representative map is attached as Appendix 2. A more definitive representation may be substituted in the future if necessary. The Government of the United States agrees to maintain fuel pipelines so as to minimize the possibility of fuel spills. Structures crossing the pipeline must be approved by the Government of the United States and the Government of the Federated States of Micronesia. The Government of the Federated States of Micronesia shall indemnify the Government of the United States for any damages to the pipeline caused by crossing structures; furthermore, the Government of the United States shall be held harmless for any damages or injuries proximately caused by these structures.

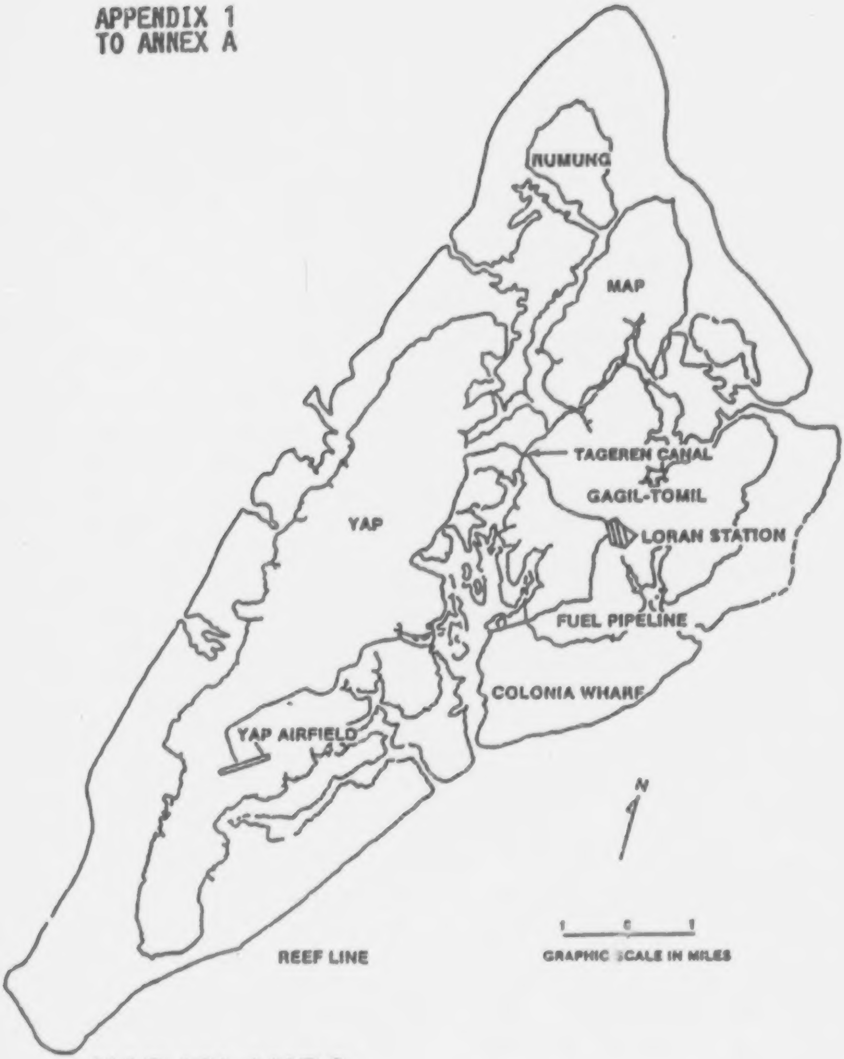
2. Joint-use areas - areas which may be used jointly by the Government of the Federated States of Micronesia and the Government of the United States:

a. Parcel 3 -- roads and bridge: The joint use of said roads beginning at Tomil Harbor and ending at the Colonia road junction, as shown on the representative map attached as Appendix 2. In consideration of the past assistance rendered by the Government of the United States in the construction and maintenance of the bridge across Tageran Canal and roads within Yap State, the Federated States of Micronesia agrees to maintain and keep in good repair said bridge and roads. Maintenance and repair by the Government of the Federated States of Micronesia will be at no cost or expense to the Government of the United States. The Government of the Federated States of Micronesia shall maintain a 24 foot wide roadway and shall ensure the existence but not the maintenance of a 10 foot wide right of way appurtenant to the roadway, 5 feet on either side of the presently existing pipeline.

b. Parcel 4 -- Yap Airfield: The joint use of the Yap airfield for those requirements of the Government of the United States associated with the use and operation of the Coast Guard sites including telecommunications purposes.

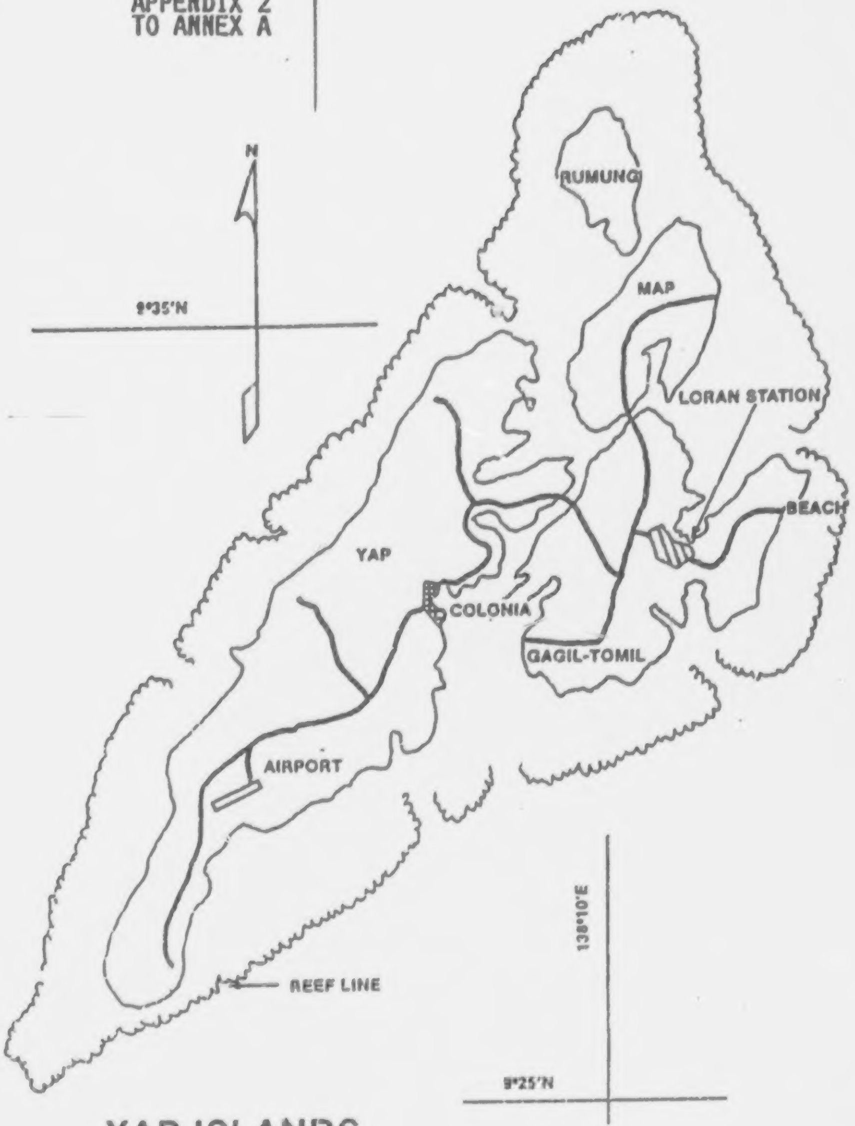
c. Parcel 5 -- Tomil Harbor: The joint use of Tomil harbor for those requirements of the Government of the United States associated with the use and operation of the Coast Guard sites.

APPENDIX 1
TO ANNEX A


RUMUNG
MAP
TAGEREN CANAL
GAGIL-TOMIL
YAP
LORAN STATION
FUEL PIPELINE
COLONIA WHARF
YAP AIRFIELD
N
1 0 1
GRAPHIC SCALE IN MILES
REEF LINE

YAP ISLANDS

APPENDIX 2
TO ANNEX A


N
9°35'N
RUMUNG
MAP
LORAN STATION
BEACH
YAP
COLONIA
GAGIL-TOMIL
AIRPORT
REEF LINE
138°10'E
9°25'N

YAP ISLANDS

REVOCABLE LICENSE TO THE FEDERATED STATES OF MICRONESIA AND THE YAP STATE GOVERNMENT FOR USE OF PROPERTY AT COLONIA, YAP

License #14-CG-57-79(Rev.1)

WHEREAS, this agreement is made and entered into by and between the United States of America, on behalf of the United States Coast Guard, acting by and through the Commander, Fourteenth Coast Guard District, 300 Ala Moana, Honolulu, Hawaii 96850 (hereinafter called the Licensor), and the Federated States of Micronesia and the Yap State Government, (hereinafter called the Licensees); and

WHEREAS, the Licensees have requested permission to continue to mount a 23 foot fiberglass whip antenna, 5.8 DB omnidirectional, mounting clamps and jacketed foam cable with connectors on the Licensor's beacon tower in Colonia, Yap; and

WHEREAS, the granting of this license will be to the benefit and advantage of the Licensor and will not injure the interests of the Licensor;

NOW, THEREFORE, pursuant to the authority contained in Section 93 (o) of Title 14, United States Code, a Revocable License is hereby granted for the mounting of the antenna on the 39 foot high white skeleton tower located on the southeast slope of Mount Matade, Colonia, Yap, subject to the following terms and conditions:

A. That the terms of this license shall be five (5) years from the date of execution, renewable for an additional five (5) year period at the option of the Licensor and, if requested, by the Licensees.

B. No substantial alteration of existing premises or facilities, or construction of permanent type improvements shall be made, and further, any item of long-term maintenance, or any additions to, or alterations of, the premises or facilities which the Licensees feel necessary or desirable in connection with their use and occupancy shall be made only with the prior approval and consent of the Licensor, at the sole cost and expense of the Licensees and within the terms of this license. Upon revocation, expiration or surrender of this license , and to the extent directed by the Licensor, the Licensees shall remove all alterations, additions, betterments, and improvements made, or installed and restore the premises or facilities to the same or as good condition as existing prior to the use by the Licensees, reasonable wear and tear excepted.

C. In the event that death or injury occurs to any person, or loss, destruction or damage occurs to any property of the Licensees, their agents or employees, or any third person in connection with the installation, maintenance, repair or use of the antenna, occasioned in whole or in part by the acts or omissions of the Licensees, the Licensees shall assume all liability therefore and will immediately indemnify and save harmless the United States Coast Guard, its officers, agents or employees from any liability arising as aforesaid.

D. It is a condition of this license that no person shall, on the ground of race, color or national origin, be excluded from participation in, or denied the benefits of, or be otherwise subjected to discrimination in the use of the facility. The United States Coast Guard reserves the right to revoke and cancel this license in the event of breach of such nondiscrimination condition during the period of the license.

E. This license is revocable by the Licensor upon thirty days written notice to the Licensees at the below referenced addresses, and by the Licensees upon thirty days written notice by one of them to the Licensor.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this 1st day of October, 1982.

FEDERATED STATES OF MICRONESIA

By

Secretary of External Affairs
Official Title

Ponape, Caroline Islands 96941
Address

UNITED STATES OF AMERICA
UNITED STATES COAST GUARD

Bernie E Thompson
By

Commander,
Fourteenth Coast Guard District
Official Title

300 Ala Moana
Honolulu, Hawaii 96850
Address

YAP STATE GOVERNMENT

By

Governor
Official Title

Yap, Caroline Islands
Address

Appendix 4 to Annex A pg. 1

LICENSE TO
THE FEDERATED STATES OF MICRONESIA
AND
THE YAP STATE GOVERNMENT
FOR USE OF REAL PROPERTY AT GAGIL-TOMIL, YAP

License #DT CG-271114-82-RP-028L

WHEREAS, this License is made and entered into by and between the United States of America, on behalf of the United States Coast Guard, acting by and through the Commander, Fourteenth Coast Guard District, 300 Ala Moana Blvd., Honolulu, Hawaii 96850 (hereinafter called the Licensor) and the Federated States of Micronesia and the Yap State Government (hereinafter called the Licensees); and

WHEREAS, with the knowledge and consent of the Coast Guard, the Licensees have drilled a water well on the perimeter boundary of the Coast Guard Loran Station property at Gagil-Tomil Island, Yap, which well has been determined to be suitable for supplying water to the residents of Yap; and

WHEREAS, the Licensees desire to obtain permission to operate said water well, and the Licensor is willing to grant a license for such use, and is so authorized by Title 14 United States Code, Section 93;

NOW, THEREFORE, for and in consideration of the mutual convenants and promises hereinafter set forth and the mutual benefits to be derived therefrom, the Licensor and the Licensees agree as follows:

ARTICLE 1. GRANT OF LICENSE

The Licensor hereby grants to the Licensees and the Licensees hereby accept from the Licensor, a license to use and occupy all that real property located within the Coast Guard Loran Station property, known as "Parcel 1," Gagil-Tomil Island, Yap, Federated States of Micronesia, as shown on Exhibit A attached hereto and made a part hereof, hereinafter referred to as the "Premises."

The Licensor further grants to the Licensees the right to use the existing roads, streets, paths and rights of way within said "Parcel 1," as may be necessary for the Licensees to have ingress to and egress from the Premises.

ARTICLE 2. TERM

TO HAVE AND TO HOLD said License for an indefinite period of time commencing on the date of the signing of this License.

ARTICLE 3. PURPOSE

The Premises are licensed to the Licensees and may be used only for the development, installation, operation, maintenance, and repair of a water well, water storage tanks, and facilities and equipment incident thereto.

ARTICLE 4. ASSIGNMENT

The Licensees may assign all or any part of its interests in this License on terms and conditions consistent with this License.

ARTICLE 5. MAINTENANCE AND REPAIR

The Licensees shall safeguard the Premises, including all improvements thereon, against destruction, impairment, and loss and, at their sole expense, maintain said Premises in good repair and condition and be responsible for any loss or damage thereto, except those resulting from ordinary wear and tear and conditions beyond the control of the Licensees.

ARTICLE 6. SANITARY LAND FILL

It is hereby recognized by the parties hereto that the United States operates and will continue to operate a sanitary land fill in the immediate vicinity of the Premises, which land fill operation could (a) cause the underground water in the vicinity of the Premises to become contaminated or otherwise unsuitable for consumption without treatment, or (b) interfere with or increase the costs of operation of the water well authorized under this License. The Licensees agree that their use of the Premises under this License shall not result in increased costs to the Licensor for the operation of the aforesaid sanitary land fill. Additionally, the Licensees do hereby specifically release, remise and forever discharge the United States, it officers, agents, servants, and employees of and from all manner of actions, claims or demands, the Licensees ever had, now has, or ever will have upon or by any matter, cause or thing whatsoever arising out of the Licensees use of the Premises or the United States' past, present, or future operation of a sanitary land fill in the immediate vicinity of the Premises.

ARTICLE 7. NO EXPENSE TO THE UNITED STATES

The Licensees understand that the use and occupancy granted by this License will be at no cost or expense to the United States nor will it generate or result in any requirement for funding by the United States.

ARTICLE 8. DAMAGE AND INJURY

The Licensees shall be responsible for any damage or injury to others arising from its use of the Premises granted by this License, including any and all improvements, facilities, installations, and fixtures, or the use thereof by the people of the Federated States of Micronesia and Yap, or by any grantee, sublicensee, permittee, agent, officer, or assignee of the Licensees.

ARTICLE 9. HOLD HARMLESS

The Licensees shall indemnify and save harmless the United States, its officers, agents, servants, and employees, from all liability under the Federal Tort Claims Act (62 STAT 869, 982; 28 U.S.C. Sec. 2671, 2680) or otherwise, for death or injury to all persons, or loss or damage to the property of all persons resulting from the use of the Premises by the Licensees.

ARTICLE 10. RESIDENTIAL DWELLINGS

No permanent residential dwellings or settlements shall be established on the Premises covered by this License, or any party thereof, without the prior approval of the United States.

ARTICLE 11. REVOCATION

This License may be revoked at any time if it is determined by the United States that the use being made of the Premises, or any part thereof, pursuant to this License, is not compatible with present or immediate future use thereof by the United States. Upon written notice of the revocation of this License by the Licensor, in whole or in part, the Licensees shall quit the Premises and surrender possession of all or any part of the land and improvements covered by this License.

ARTICLE 12. TERMINATION BY LICENSEES

The Licensees shall have the right to terminate this License upon thirty (30) days' written notice by one of them to the Licensor.

ARTICLE 13. REMOVAL OF PROPERTY

Upon the revocation of this License by the Licensor as provided in Article 11 hereof, or its termination by one or both Licensees as provided in Article 12 hereof, the Licensees will vacate the Premises, remove its property therefrom, securely cap any water wells located on the Premises, and restore the Premises to a condition satisfactory to the Licensor, ordinary wear and tear and damage beyond the control of the Licensees excepted. The Licensees shall be given a reasonable period of time to remove all of its property from the Premises.

ARTICLE 14. UTILITIES

If utilities and services are furnished by the Licensor to the Licensees for their use of the Premises, the Licensees shall reimburse the Licensor for the cost thereof as determined by the Licensor in accordance with applicable statutes and regulations.

ARTICLE 15. NONDISCRIMINATION

It is a condition of this license that no person shall, on the ground of race, color or national origin, be excluded from participation in, or denied the benefits of, or be otherwise subjected to discrimination in the use of the facility. The United States Coast Guard reserves the right to revoke and cancel this license in the event of breach of such nondiscrimination condition during the period of the license.

ARTICLE 16. UNITED STATES RULES AND REGULATIONS

The Licensees shall comply with such rules and regulations regarding security, ingress, egress, safety and sanitation as may be prescribed, from time to time, by the Commanding Officer, U. S. Coast Guard Loran Station, Yap, Western Caroline Islands.

IN WITNESS WHEREOF, the parties have hereto subscribed their names this 1st day of October, 1982.

FEDERATED STATES OF MICRONESIA

By

Secretary of External Affairs
Official Title

Ponape, Caroline Islands 96941
Address

UNITED STATES OF AMERICA
UNITED STATES COAST GUARD

By

Commander,
Fourteenth Coast Guard District
Official Title

300 Ala Moana Blvd.
Honolulu, Hawaii 96850
Address

YAP STATE GOVERNMENT

By

Governor
Official Title

Yap, Caroline Islands
Address

Appendix 4 to Annex A pg. 5

RECORDING DATA

Filed and recorded in Book _________, Page _______, at
________ a.m./p.m., this _________ day of ______________, 198_.

____
Clerk of Courts, Yap State

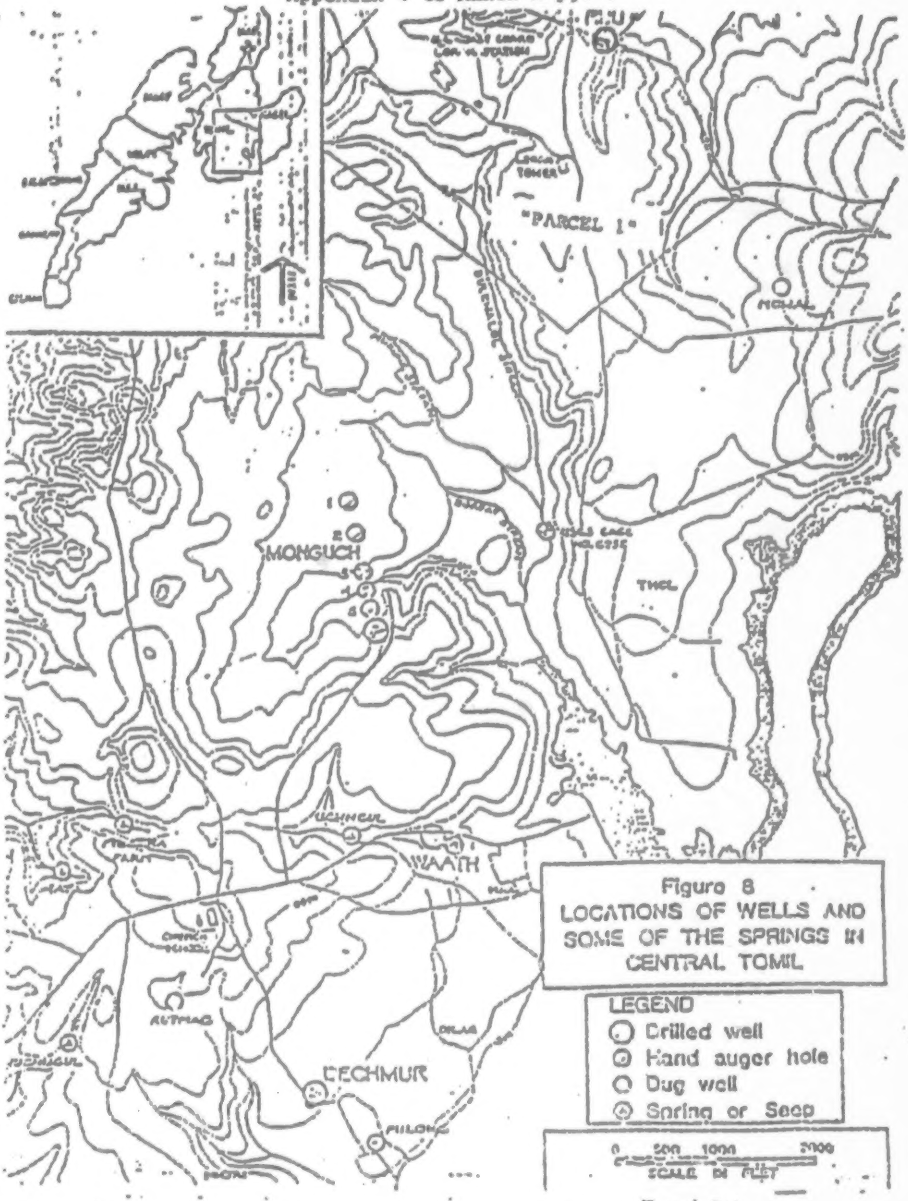

"PARCEL 1"
MONGUCH
1
2
3
4
5
THOL
WAATH
DECHMUR
LEGEND
Drilled well
Hand auger hole
Dug well
Spring or Seep
0 500 1000 2000
SCALE IN FEET

Figure 8
LOCATIONS OF WELLS AND SOME OF THE SPRINGS IN CENTRAL TOMIL

Exhibit "A"

Annex B

Civic Action Teams

I. Provision of United States Civic Action Teams

A. The Government of the United States shall make available to the Government of the Federated States of Micronesia the services of Civic Action Teams (CATs) which shall engage in such projects and activities as may be identified by the Government of the Federated States of Micronesia and as mutually agreed by the Government of the United States and the Government of the Federated States of Micronesia.

B. The Government of the United States shall make available to the Government of the Federated States of Micronesia up to four CATs upon request and under the following provisions:

1. The establishment of an annually agreed work program, in accordance with paragraph III of this Annex, designed to assist in the fulfillment of the national developmental goals of the Federated States of Micronesia; and

2. The sharing of CAT costs by the Government of the United States and the Government of the Federated States of Micronesia in accordance with paragraph II of this Annex, taking into consideration the assistance provided in Section 212(b) of the Compact.

C. The CAT services may be terminated under any of the following conditions:

1. At the request of the Government of the Federated States of Micronesia;

2. United States military necessity;

3. Failure of the United States Congress to appropriate the necessary funds; or

4. Failure of the Government of the Federated States of Micronesia to reimburse the Government of the United States for its share of CAT costs in accordance with paragraph II of this Annex.

D. Unless otherwise agreed, the CATs shall be organized and equipped in accordance with paragraph IV to this Annex. The provision of additional equipment for use by a CAT shall be the responsibility of the Government of the Federated States of Micronesia, but the Government of the United States shall attempt to make provision for such equipment subject to its availability.

E. In addition to their principal role and as mutually agreed, the CATs shall provide training and apprenticeship opportunities to citizens of the Federated States of Micronesia. Such apprentices shall be nominated by the Government of the Federated States of Micronesia which shall be responsible for any expenses incurred by such persons in these training and apprenticeship programs.

II. Support and Operation of Civic Action Teams

A. The basis for sharing of CAT costs shall be that the Government of the United States shall support all team costs and the Government of the Federated States of Micronesia shall provide an annual amount of $250,000.00 for each deployed team. This payment by the Government of the Federated States of Micronesia to the Government of the United States shall commence on the first anniversary of the effective date of this agreement.

B. The Government of the United States shall assume all responsibility associated with the provision of CATs with the exception that the Government of the Federated States of Micronesia shall provide:

1. construction materials for projects;

2. suitable public or private land, as required, for CAT base camps;

3. all necessary access and entry clearances into public and private land and all permits for projects;

4. transportation or reimbursement, as mutually agreed, for inter-island movement within the Federated States of Micronesia of personnel, supplies and equipment; and

5. new base camp facilities coincident with team relocation, unless otherwise mutually agreed.

III. Planning Cycle for Civic Action Team Employment

A. The National Government of the Federated States of Micronesia, in addition to using the CATs to assist in national development projects, may also use them to assist state or local governments in the Federated States of Micronesia and for other such projects and activities, including outer island development projects, as may be mutually agreed between the Government of the United States and the Government of the Federated States of Micronesia.

B. The Government of the United States and the Government of the Federated States of Micronesia shall review, on an annual basis or otherwise as may be mutually agreed, all matters relating to the operation and use of the CATs. The annual review shall include planned CAT projects, activities and associated costs.

C. The Government of the United States shall make every effort to inform the Government of the Federated States of Micronesia as early as possible of the number of CATs and personnel which it can make available during the following fiscal year. The Signatory Governments shall make every effort to inform each other as soon as possible should temporary or permanent withdrawal of any CAT be required pursuant to paragraph I of this Annex.

IV. Civic Action Team Composition

A. Team Personnel Composition. Subject to the provisions of paragraph III of this Annex, each CAT will normally be composed of one officer and 12 enlisted personnel as follows:

1. "Officer in Charge (OIC)": Commissioned officer who is preferably a graduate engineer or architect (or having equivalent experience).

2. "Assistant Officer in Charge (AOIC)": Non-commissioned officer who is a trained construction specialist in equipment operation or general building with extensive experience operating construction units.

3. "Equipment Operators": Two individuals with extensive experience with a wide variety of construction equipment and operations, including cranes.

4. "Carpenter/Woodcraftsman/Mason": Two individuals experienced in carpentry, concrete and timber construction.

5. "Steel Worker/Welder": One individual experienced in gas and arc welding, cutting, sheet metal fabrication, structural steel erection and pioneer-type rigging.

6. "Construction Equipment Mechanic": Two individuals experienced in maintenance of a variety of automotive and construction equipment with one experienced in parts procurement and stock level determination.

7. "Utilitiesman/Plumber/Refrigeration Mechanic": One individual experienced in plumbing, layout, pump installation and maintenance, refrigeration and well drilling.

8. "Construction Electrician": One individual experienced in interior wiring, pole line construction and small power plant installation, maintenance and operations.

9. "Engineering Aide/Surveyor/Draftsman": One individual experienced in planning and estimating, drafting, surveying and soil analysis.

10. "Hospital Corpsman/Medic": One specialist in field medicine, public health and personal hygiene, and qualified for independent duty.

B. Team Equipment Allowance. Subject to the provisions of paragraph III of this Annex each CAT shall normally include the following standard equipment allowance:

1. Truck, ¼ ton Utility, One (1)
2. Truck, 1 & ¼ ton Cargo, One (1)
3. Truck, 5 ton Dump, Three (3)
4. Trailer, Semi-dolly, One (1)
5. Trailer, Tilt top 25 ton, One (1)
6. Mixer, Concrete Portable, One (1)
7. Grader, Motor, One (1)
8. Loader, Front End Rubber Tire, One (1)
9. Roller, Vibratory, One (1)
10. Tractor, Crawler TD-20, One (1)
11. Generator, 30KW, Two (2)
12. Welder, Arc, One (1)
13. Pump, Centrifugal, One (1)

Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 227, 321 and 323 of the Compact of Free Association

IN WITNESS WHEREOF, the undersigned, duly authorized for the purpose, have signed the present agreement.

DONE at Honolulu, Hawaii, in duplicate, this 1st day of October, 1982.

FOR THE GOVERNMENT OF THE UNITED STATES:

- - - - - - - - - - -

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA:

Agreement Between
The Government of the United States
and
The Government of the Federated States of Micronesia
Regarding Friendship, Cooperation and Mutual Security
Concluded Pursuant to Sections 321 and 323 of
The Compact of Free Association

Agreement Between
The Government of the United States
and
The Government of the Federated States of Micronesia
Regarding Friendship, Cooperation and Mutual Security
Concluded Pursuant to Sections 321 and 323 of
The Compact of Free Association

PREAMBLE

The Government of the United States and the Government of the Federated States of Micronesia:

Reaffirming their desire to live in peace with all peoples and all governments and their desire to strengthen and support the cause of peace in the Pacific area;

Desiring to declare publicly and formally their sense of unity, so that no potential aggressor could be under the illusion that either of them stands alone in the Pacific area;

Mindful that the Government of the United States and the Government of the Federated States of Micronesia, in the exercise of their respective capacities for the conduct of foreign affairs, have entered and do enter into agreements which are implemented in accordance with their respective constitutional processes; and

Reaffirming the purposes and principles of the Compact of Free Association which contributes to regional peace and mutual security

by *providing* United States undertakings for the defense of the Federated States of Micronesia and assistance toward its economic advancement and self-sufficiency;

NOW THEREFORE AGREE:

ARTICLE I

The Signatory Governments rededicate themselves to the principle that any international disputes in which they may be involved shall be settled by peaceful means and in such a manner that international peace, security and justice are not endangered.

ARTICLE II

The Signatory Governments shall consult at the request of either Government, whenever the political independence of either of them or their mutual security is threatened in the Pacific.

ARTICLE III

The Signatory Governments recognize that, in view of the special relationship between their peoples, any attack on the Federated States of Micronesia would constitute a threat to the peace and security of the Pacific area and a danger to the United States. In the event of such an attack or the threat thereof, the Government of the United States would take action to meet the danger to the United States and the Federated States of Micronesia.

ARTICLE IV

1. The Signatory Governments, in recognition of the obligations undertaken by the Government of the United States in this Article and in Article III of this Agreement, shall inform one another promptly and shall consult in the event either of them has reason to believe that a third country seeks access to or use of the Federated States of Micronesia by military personnel or for military purposes.

2. If the Government of the United States determines that any third country seeks access to or use of the Federated States of Micronesia by military personnel or for military purposes, the Government of the United States has the authority and responsibility to foreclose such access or use, except in instances where the two Governments otherwise agree.

3. The Government of the United States shall exercise its authority and responsibility under this Article with due respect to the authority and responsibility of the Government of the Federated States of Micronesia for its internal and external affairs, including the responsibility to assure the well-being of its people.

4. The Government of the Federated States of Micronesia shall render appropriate support and assistance to the Government of the United States in meeting its responsibilities under this Article. Such assistance may include the removal from the Federated States of Micronesia, at the request of the Government of the United States, of individuals whose presence constitutes third country access to or use of the Federated States of Micronesia by military personnel or for military purposes.

ARTICLE V

The Signatory Governments recognize that the sustained political development and economic advancement of the Federated States of Micronesia are necessary contributing elements to the attainment of the mutual security goals expressed in this Agreement. The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the people of the Federated States of Micronesia. To those ends, should the terms of Articles I through VII of this Agreement become applicable pursuant to Article VIII, in light of the continuing special relationship between the Signatory Governments, and subject to the provisions of this Agreement:

1. The Government of the United States reaffirms that the Federated States of Micronesia is self-governing and that the Government of the Federated States of Micronesia, acting in accordance with the

Constitution of the Federated States of Micronesia, has the capacity to maintain and conduct diplomatic, trade and commercial relations without interference or intervention.

2. The Signatory Governments shall consult at the time the terms of this Agreement become applicable, and periodically thereafter, to examine the economic advancement of the Federated States of Micronesia, taking into account the internal and external revenues available to the Federated States of Micronesia and the relationship of its need for external economic assistance to its most recent levels of United States assistance. Based on such consultations, the Signatory Governments shall enter into appropriate arrangements as mutually agreed.

ARTICLE VI

The Signatory Governments shall consult at the time the terms of this Agreement become applicable, and periodically thereafter, to examine the needs, if any, of the Government of the United States for defense facilities and operating rights in the Federated States of Micronesia. Based on such consultations, the Signatory Governments shall enter into appropriate arrangements as mutually agreed.

ARTICLE VII

The Signatory Governments shall establish a Council, consisting of the United States Secretary of State and the Federated States of Micronesia Secretary of External Affairs or their designees, to carry out consultations as provided in this Agreement. The Council shall be so organized as to be able to meet at any time. Designees of the respective Secretaries shall be senior officials of their Governments, unless otherwise mutually agreed.

ARTICLE VIII

In order to give effect to their undertakings in this Agreement:

1. The Signatory Governments shall exercise their authority and responsibility under this Agreement in accordance with their respective constitutional processes.

2. The Government of the Federated States of Micronesia recognizes that this Agreement contains international obligations and shall submit this Agreement for approval as a treaty pursuant to Article IX, Section 4 of the Constitution of the Federated States of Micronesia.

3. The Government of the United States recognizes that this Agreement is an Executive Agreement of the United States containing international obligations and shall execute it in accordance with its constitutional processes.

ARTICLE IX

This Agreement shall come into effect simultaneously with the Compact of Free Association. The terms of Articles I through VII of this Agreement shall become applicable upon expiration or termination of Title Three of the Compact of Free Association.

ARTICLE X

This Agreement shall remain in full force and effect until terminated or otherwise amended by mutual agreement. The Signatory Governments shall consult whenever either of them desires to discuss this Agreement with the other or to propose any amendment.

ARTICLE XI

The Definition of Terms set forth in Article VI of Title Four of the Compact of Free Association is incorporated in this Agreement.

IN WITNESS WHEREOF, the undersigned, duly authorized for the purpose, have signed the present agreement.

DONE at Honolulu, Hawaii, in duplicate,

this 1st, day of October, nineteen hundred and

eighty-two.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

Agreement between the Government of
the United States of America
and the Government of
the Federated States of Micronesia
Regarding Aspects of
the Marine Sovereignty and Jurisdiction of
the Federated States of Micronesia

Agreement between the Government of
the United States of America
and the Government of
the Federated States of Micronesia
Regarding Aspects of
the Marine Sovereignty and Jurisdiction of
the Federated States of Micronesia

PREAMBLE

The Government of the United States and the Government of the Federated States of Micronesia:

Reaffirming that, in the exercise of its foreign affairs capacity, the Government of the Federated States of Micronesia shall conduct in its own name and right foreign affairs relating to the law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent recognized under international law;

Noting the declared intention of the Government of the Federated States of Micronesia that it shall become a Contracting Party as soon as possible to the Convention resulting from the Third United Nations Conference on the Law of the Sea;

Recognizing the importance to the island nations of the Pacific and to other nations of the benefits and protections of the Convention resulting from the Third United Nations Conference on the Law of the Sea;

Acknowledging the importance to their countries and peoples of a uniform law of the sea in accordance with generally recognized international law; and

Acknowledging the capacity of the Government of the Federated States of Micronesia in its own name and right to become a Contracting Party to the Convention resulting from the Third United Nations Conference on the Law of the Sea;

NOW THEREFORE AGREE:

ARTICLE I

The Government of the Federated States of Micronesia by this treaty obligation limits the statement of marine territory and jurisdiction in Article I, Section 1, Sentence 2 of the Constitution of the Federated States of Micronesia by agreeing that Article I, Section 1, Sentence 2 shall not be effective to claim an archipelago or a regime of archipelagic waters, or to claim any other aspect of marine territory or jurisdiction not consistent with generally accepted international law.

ARTICLE II

The undertakings of Article I of this Agreement extend to all other States.

ARTICLE III

The Government of the United States recognizes that this Agreement, which shall have the full force and effect of an Executive Agreement of the United States, is a treaty obligation under international law.

ARTICLE IV

The Government of the Federated States of Micronesia recognizes that this Agreement contains "international treaty obligations" as those words are used in Article I, Section 1 of the Constitution of the Federated States of Micronesia and agrees to submit this Agreement for approval as a treaty pursuant to Article IX, Section 4, of the Constitution of the Federated States of Micronesia.

ARTICLE V

This Agreement shall come into effect simultaneously with the Compact of Free Association and shall remain in effect during the effective period of Title Three of the Compact of Free Association between the Governments of the United States and the Federated States of Micronesia.

ARTICLE VI

The provisions of this Agreement may be amended at any time by mutual agreement.

ARTICLE VII

Nothing in this Agreement shall prejudice any undertaking by either the Government of the Federated States of Micronesia or the Government of the United States toward the other in the Compact of Free Association between them.

ARTICLE VIII

Nothing in this Agreement is intended to or shall prejudice any treaty obligation assumed, or any rights, jurisdiction or authority gained or confirmed, by the Government of the Federated States of Micronesia or the Government of the United States in becoming a Contracting Party to the Convention resulting from the Third United Nations Conference on the Law of the Sea.

ARTICLE IX

Nothing in this Agreement affects or prejudices the rights, freedoms and obligations of the Government of the United States under international law with respect to high seas freedoms and the exercise of rights and jurisdiction over the waters or seabed and subsoil or any other matter related to the law of the sea.

IN WITNESS WHEREOF, the undersigned, duly authorized for the purpose, have signed the present agreement.

DONE at Honolulu, Hawaii, duplicate, this 1st day of October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA: